

WAYS AND MEANS
and
CONSUMER PROTECTION COMMITTEE
of the
SUFFOLK COUNTY LEGISLATURE

Minutes

A regular meeting of the Ways and Means and Consumer Protection Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on **August 3, 2004**.

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MEMBERS PRESENT:

Legislator Cameron Alden • Chairman

Legislator Andrew Crecca • Vice•Chair

Legislator William Lindsay

Legislator Lynne Nowick

Legislator Peter O'Leary

Legislator Viloría•Fisher

Legislator Elie Mystal

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ALSO IN ATTENDANCE:

Mea Knapp • Counsel to the Legislature

Jim Spero • Director, Budget Review Office

Charles Gardner • Director of Consumer Affairs

Ilona Julius • Clerk's Office

Ben Zwirn • County Executive's Office

Bill Faulk • Aide to Presiding Officer

Warren Greene • Aide to Legislator Alden

Ed Hogan • Aide to Legislator Nowick

Pat Zielenski• Real Estate Division

Jacqueline Caputi • County Attorney

Marie Pendzich • Sierra Club

Richard Amper • LI Pine Barrens Society

Sarah Anker • CHEC

James Daly • GIS Task Force

Karen Joy Miller

Fred Gorman

All other interested parties

MINUTES TAKEN BY:

Donna Catalano • Court Stenographer

(* THE MEETING WAS CALLED TO ORDER AT 3:50 P.M. *)

CHAIRMAN ALDEN:

Good afternoon. Thanks for hanging around for Ways and Means. I know everyone is really excited about this agenda we have today. We're going to get started. And we will have the Pledge, and we will have the Pledge led by Legislator Lindsay. Thanks.

SALUTATION

CHAIRMAN ALDEN:

Thank you. I don't have any cards •• oh, now we do have cards. All right. First card is Fred Gorman. Hi. And you have three minutes.

MR. GORMAN:

I'm here to speak to you about LIPA, the supposed rate increase for fuel purchase adjustments and the desperate need that we have as a County, every single resident of this County to have a watch dog. I'm going to ask you to reconsider CAP. If everyone got this package, I know you guys get a lot to read, you only have to read one line. Fuel oil projected •• this projection is November 2003, \$449 million. The next line, approved \$366 million.

Now, I've FOILED LIPA over a month and a half ago for every one of the •• the worksheets on every one of these line to see where they could at all justify an \$80 million decrease in the cost of fuel oil when everyone else is saying it's going up through the roof. There's another line ••

so understand, that is your rate increase right there. That money was diverted. Where was it diverted? Well, they're paying down debt. Now as you know, with a budget you can go through all lines, move this here, move that there, whatever. But they're paying down debt, they're paying down the Shoreham debt.

So what we have here is a corporation that has come out •• a public corporation which has come out and said, hey, maybe we ought to consider going private, why don't we have Bear Stearns, the same people that •• those of you here long enough remember •• was the one that structured the LILCO•LIPA deal that had us pay for Shoreham three times. So that fix is in. As far as I'm concerned, the fix is in, and we have no support, no help. I have the Nassau County Civic Association having the same type of conversation with Nassau. I'm going to ask you to join with them. If you take a look down a little bit further, we have something here called recovery of deferred fuel and purchase power costs, that's your other 10%.

So here what you have is •• the mighty three and Mr. Kessel swearing to us, we're going to hold prices down, but now we have to make these fuel adjustments, so we're not really increasing prices, but we are increasing it 15%. Five he told you about. He said, I think another 10 is coming. You will look there, you'll find it. And if you have your financial people look at it, they'll pretty much confirm. If you notice, I gave you all four or five years worth of these here, and you can see all the extra things that they added into fuel adjustment. You know, there were only five items that were considered fuel back when LIPA started, and now you have about 19, including OSHA, insurance and other things like that, which I didn't know was really fuel. That's because they can make whatever want, they can say whatever they want, they can do whatever they want, because there is no regulatory authority. They set their own rates. And we have no one to protect us, and we need CAP or something like CAP back.

Last two pages of the information I sent you just basically tells you LILCO itself happens to be sitting there with a million dollars to be used by advocacy groups. The money's there, but we need somebody, and you are the only august body that stood up to these guys the last time. I was outside when the Governor was outside. It was my friends that were heckling the heck out of him. We need your help. We need you as a County, as an authority to get together, reestablish CAP, get the money from LIPA, find out exactly what's going on, because there are several other avenues that could have been considered. We could consider a rate payer mutual as one possible way of doing this, because understand, it's the rate payer that is backing whatever deal is going to be cut with KeySpan, and KeySpan will be able to come up with what

appears to be a better plan, because they are going to start with a 15% rate increase locked in. They're going to have less debt, because we prorated the debt payment. And they're going to be able to get a better bond rating because LIPA is over extended. It's the only utility, I think, in the United States of America where there's 65% debt ratio. Am I too loud?

CHAIRMAN ALDEN:

It's not your fault. The microphones have been cranked way up today.

MR. GORMAN:

Let me tell you. After what you guys did to my poor Town of Smithtown, I'm cranked up too. We had nothing to do with that business. You have to understand, it's your park that isn't making money that you wanted to improve. We have never picked on people, we have never asked to remove these people, we have taken no action against these people. As a matter of fact our code enforcement won't even go down there and inspect their property unless requested. We've always treated them as we've treated every other resident of Smithtown. And this was not our issue, it was your issue. And when I listened to you guys, my God, it sounded like we were a bunch of bigots trying to get rid of the poor people. I'm off base. I'm sorry about that.

But basically what I'm saying here is we need Gordian Raacke back, because nobody really understands the in•workings and tricks of LIPA. Within two weeks I've been promised I'm going to have all the factual information on that. I'm also looking into what happened with the bond proceeds from the Shoreham regulatory debt, because I have reason to suspect it didn't go exactly for what it was supposed, it may have been used for other purposes. Once I have that information, I'll come back with that information as actual information. Right now all I have is their budgets, which absolutely clearly show you where the increases are coming from. So I would really ask you to very seriously consider getting CAP back into business and get the financing. Thank you.

CHAIRMAN ALDEN:

Your time is up, but Mr. Gorman, wait one second. Jimmy, I put in legislation that was passed that would actually be funding CAP again. Where are we funding them to or did it run out in the beginning of the year or are they still being funded?

MR. SPERO:

No funding's been authorized for CAP in 2004. This whole year the Legislature not authorized any continuation of funding.

CHAIRMAN ALDEN:

That was in the Operating Budget last year, though.

MR. SPERO:

Usually it's done by a Procedural Motion. We have •• we have funds in the Legislature's budget which could be used for that.

CHAIRMAN ALDEN:

Would you draw up that resolution for me?

MR. SPERO:

Sure.

CHAIRMAN ALDEN:

Thanks. Okay. Thank you, Mr. Gorman for bringing that to our attention.

MR. GORMAN:

Thank you very much for getting it funded, but don't forget to look into LIPA. If they've got a million dollars sitting in their bank account to do due funding for advocacy •• thank you. And I can say that, I really can. Goodbye.

CHAIRMAN ALDEN:

Now we'll bring up another advocate, and that's Richard Amper. Hi, Dick, you have three minutes.

MR. AMPER:

How are you? Thank you very much. It won't take me that long. People are still talking about 1086 that was Legislator Binder's proposal to transfer the responsibility for real estate to the Legislature. Now, the Legislature very successfully resolved this problem, now the ball is in the Executive Branch's court. They've got to start performing. I think they're making some progress.

And I thank •• really I want to reiterate, I frequently come and complain when the environment

isn't the priority we think it should be and we always think it's a big priority. I know you folks do. That was a good thing that you folks did. You got the reforms reformed, now the ball is the Executive Branch's court. They ought to do what they're supposed to do. They'll be convening this great new committee that involves the Legislature and you. It would be a bad idea for us now to go back and reinvent a situation where the Real Estate Division reports in an executive function to the Legislature. I'm not even quite sure how that would work, but it's certainly a violation of separation of powers, and not something that we shouldn't •• that we would have you encourage.

The second thing I want to say I think it's time to go back and revisit the whole issue of the Department and Environment and Energy. The environment is a priority to this Legislature and to this County, especially with the people who live here and have committed more than 45 of the 50 states to preserving open space and protecting drinking water. And really it's important that this be elevated to the level that it should be. Several members of the Legislature, Mr. Caracappa and Mr. Crecca in particular, had some very specific concerns with how that would work, how it would involve CEQ, how other things would be involved. And we have asked the County Executive to rework that, it's been streamlined. It's very, very much in accord with the kind of things that Legislative Counsel suggested during the course of conferencing that. So to the extent that you can take a look at that, and if there are any further additions or corrections or refinements that can make it work, it would be really, really great to finally see Suffolk County have a Department of the Environment. And I'm sure the Legislature would benefit as well. So thanks kindly.

CHAIRMAN ALDEN:

Thank you. Okay. Next up is Sarah Anker.

MS. ANKER:

Hi. I have a little extra body here with me as usual. Sarah Anker, I'm here representing CHEC, Community, Health and Environment Coalition. And I'm speaking on support of Bill 1345. Okay. I'm here today to speak in support of the Bill 1345, the establishment of Suffolk County Department of Environment. The County has come a long way in initiating and establishing environmental programs including the Open Space Program, Agricultural Management Task Force, pesticides •• Pesticide Phase Out Community Advisory Committee, and the recently created Cancer Task Force.

The organization I represent here today is CHEC. And it was established due to the community's concern of elevated levels of breast cancer in Mount Sinai, Coram and Port Jeff Station. This was documented, New York State Health Department cancer maps, and the area is now under investigation by the state. After being involved with CHEC for over two years, I can say it's not just Mount Sinai, and it's not just Coram or Port Jeff, it's Suffolk County. And it's also not just breast cancer, it's other cancers and other diseases. And I can't think •• I don't know of anyone that has not been affected, any resident of Suffolk County, with cancer or any other diseases that •• • that are debilitating.

CHEC advocates that health and environment are interrelated and reflect and interact upon each other. I commend the County on its many initiatives that it has taken to protect our health and our environment. By creating a Department of Environment, you will be building a stronger foundation our County needs to ensure a safe and healthy environment for the residents of Suffolk County. I also wanted to mention, I recently read an article, I think it was New York Times, and they were saying Suffolk County initiates things that no other County in the country does. They started the phone •• the car phone bill, they •• smoking, you know, the no smoking. And we need your help to keep Suffolk County where it needs to be, right up front. And especially •• unfortunately with our cancer issue, you need to be there for us. We would appreciate your help in doing that. And we hope you support the Bill 1345. Thank you.

CHAIRMAN ALDEN:

Thanks for coming down. I'll just reassure you that some of those issues, whether there's a realignment of these departments or not, they're at our hearts, and we will continue to, you know, be ground breakers or whatever you want to call it. James Daly.

MR. DALY:

Good afternoon, Mr. Chairman and ladies and gentlemen of the Legislature. My name is Jim Daly, and I'm a member of the Suffolk County GIS Task force. I'm pleased to be here today to express my support for IR 1519. My full time position is assistant cartographer in the Suffolk County Department of Planning, where I've been using GIS technology on an every day basis for the past ten years. I'm also the Chairman of the Long Island Geographic Information System user group, LIGIS as it's commonly known, which has over 600 members who represent federal, state, county, town, academic, non profit and private agencies.

My responsibilities as Chairman of LIGIS is to enhance communication and cooperation among these GIS professionals who work here on Long Island in both Nassau and Suffolk Counties.

And that responsibility of mine really is what is at the heart of this resolution, IR 1519, to enhance communication and cooperation amongst GIS users specifically in Suffolk County. Creating the Suffolk County GIS community will be a significant step in the direction of providing communication and cooperation, but more to the point, this committee will provide leadership for the GIS technology in Suffolk County where none presently exists. And because of this absence of leadership, we are wasting money and missing an opportunity to increase the efficiency and productivity of our work force.

Presently, the GIS Task Force's goal is to deploy a county•wide •• county•wide enterprise GIS. This is relatively a new GIS architecture software base that uses network and web services to provide geographic information to hundreds of users from a centralized server in a cost efficient manner. With this in place, GIS technology will diffuse itself throughout the County having it become more integrated into the internal production process and more transparent to the users.

Allow me to back up for a second and first explain in a nutshell what GIS is for those who may not know what it is. Simply a GIS uses a computer to link any kind of information to a geographic location on the earth. It allows us to visualize data in ways not possible when looking at columns and rows of a spread sheet. As simple as that sounds, there are many caveats to making it work effectively and efficiently in an organization as large as Suffolk County. But fortunately we have many of the expensive items necessary for it to work already in place. What we don't have in place is the oversight, leadership, a lead agency to coordinate the standard practices and procedures of how GIS data sets should be made available and accessible.

Now, you may ask why doesn't the GIS Task Force do this. And the answer is we have tried, we are trying and we will continue to try. But we have no authority to require departments to adhere to our defined standards and policies. And I firmly believe that it is not that each department doesn't want to cooperate, but they don't see any reason to when there has been no concerted effort by an administration to support a County•wide GIS enterprise initiative. We need your support. This resolution is a first step for this GIS initiative, and it's a big one. It's a big step because there are many GIS users in Suffolk County who have lost faith in the County's ability to use its technology the way it's supposed to be, and as a result we have lost their eagerness to cooperate. But I'm sure we can turn that around if we have you support on

this resolution.

You see, when GIS technology was introduced into Suffolk County Government in the mid 1980s, it was done so with no formal controls and has resulted in the proliferation of hundreds of incompatible data sets that are not being used •• cannot be used. In response to this, the GIS Task Force was formed to gain some kind of control, but the task force came too late, and many of the data sets were already in place and department refused to change to come in line.

CHAIRMAN ALDEN:

Don't get be nervous, but your time ran out. Can you sum up or you have a lot more?

MR. DALY:

I just got a little bit more.

CHAIRMAN ALDEN:

How much is a little bit more?

MR. DALY:

A page and a half. It's a short page.

CHAIRMAN ALDEN:

Kind of, you know, do it quickly.

MR. DALY:

What we'd like to do •• let me see if I can wrap this up real quick. What I'd like to express is that we need to educate top level managers and at least let them know and read about what GIS •• what GIS is and how it can help their mission. Once they understand how GIS enterprise would significantly help them, they'll realize that cooperating is in their best interest. At the moment right now, funding is not an issue. Most of our GIS infrastructure in already in place. And what we need to do is pass this resolution forming a Suffolk County GIS Committee. And this will begin to knock down some of the barriers that are preventing the coordination of GIS. I have a few things more to go on this, but I'd like to stress that what we're trying to do here, the GIS Task Force, for the last 13 years or so has been going nowhere, because we're not getting the support from the top level managers and from the Executive's Office or from the Legislature. Now that seems to be turning around. And we're here to ask

you today to form a GIS Committee so it's the first step in setting a tone and a precedent for GIS data to be coordinated and that it can be used more effectively and efficiently. We'd like to see all the employees in Suffolk County be able to use GIS without really having to know how to use GIS. And if this committee is put in place, we'll begin those first steps to get there. Thank you.

CHAIRMAN ALDEN:

Thank you. Next up, Karen Joy Miller.

MS. MILLER

Hello, and thank you. My name is Karen Joy Miller, and I'm the President of Huntington Breast Cancer Action Coalition and Prevention is the Cure. I just want to say something off the record about what Mr. Daly said. I am on the advisory committee ••

CHAIRMAN ALDEN:

You're on the record, though. Sorry.

MS. MILLER:

Oh, okay. I'm on the record. I'm on the advisory committee for the National Institutes of Health that develop the federal GIS. And what he is pleading for is very necessary to standardize data so that we can have data sets to put into this tool that will provide answers in this particular subject on environment and disease that I think will be •• push the issue forward. So I'd like to support Mr. Daly's request.

As far as 1345, the Suffolk County Department of Environment and Energy, Huntington Breast Cancer Action Coalition as well as Prevention is the Cure supports the creation of this department. Suffolk County has been a leading community in addressing breast cancer concerns regarding this insidious disease. We now have an opportunity and bear a profound responsibility to create and secure the Suffolk County Department of Environment and Energy. Since the movement began, our County had done its part raising awareness to the numbers of diagnosed breast cancers. But the numbers have increased from a thousand woman and men diagnosed on Long Island in 1990 to over 2500 in the numbers presently.

I was particularly pleased with the Legislative support of Prevention is the Cure Week. This week for the past four years following Mother's Day, we in the breast cancer community have held 20 to 30 free educational programs to engage our neighbors on health lifestyle practices.

The breast cancer community believes this will help to decrease the incidents of disease. The Suffolk County Department of Environment and Energy, specifically with a Division of Cancer Awareness, has the opportunity to become a key component in a national campaign to lower the cancer rates. We have had •• we can have a central department where constituents can come for information on health lifestyle practices as well as provide pertinent information about their community. We can promote and engage the public to attend programs throughout the year on creating a cleaner environment, what our neighbors can do and what our government can do. We can form partnerships with agencies within the National Institute of Health, NIH. We can investigate safer cleaning products to use in and around our municipal properties. And most importantly we will have a central area to gather data to offer to the GIS system as so many families in Suffolk County are more than willing to work together to lower the incidents of disease. We have as the leading County on Long Island a responsibility to create a department that is proactive. It is an extraordinary opportunity whose ultimate goal is to help the environmental health researchers connect the dots between the toxic environment and disease. Please vote in favor of creating this department. Thank you.

CHAIRMAN ALDEN:

Thank you. Next up •• now, I'm going to apologize to you in advance, Marie P•e•n•d•z•i•c•h, Pendzich.

MS. PENDZICH:

This is probably going to be a real short three minutes, because it's on the same resolution that was just spoken about several times. I'm here representing Sierra Club, and we're here in support of County Executive Levy's Resolution 1345. This is a resolution whose time has come. It's been long overdue that the environment and the health of the residents as a result have become a priority. We need to •• 80% of the vote •• over 80% of the voters when surveyed said that the environment was an important issue to them, and I see that is true for Suffolk and Nassau County residents as well as the national totals.

Because of this, we do support this committee. It is absolutely a priority. No longer can we just leave things to status quo and special interests that •• that pilfer the environment because they stand to get financial gain. And seeing that the resolution includes just about every aspect that you could think of with energy and pesticide use, recycling is even mentioned in there, farmland preservation and open space, sprawl is a big concern for Sierra Club. We see one after the other vacant lots and farmland yielding to new developments. And it's really a sad

state of affairs.

When I moved out to Nassau County, oh, geez, when I was a child, there was nothing but open fields. My sisters and I used to go pick blueberries and wild raspberries. There's none of that left anymore. I mean, you can't even go down to the bay and fish or pick plants without seeing signs restricting the amount that you can take home because they're hazardous to health. So again, this •• this resolution is long overdue. We desperately need a committee like this that's going to be beholding to residents and to the environmental issues that are so dear to all of us. Thank you.

CHAIRMAN ALDEN:

I'm out of cards now, but I have one piece of correspondence ••

MS. ESPOSITO:

Sorry. I thought you were moving on.

CHAIRMAN ALDEN:

Okay. But I'm going to read a piece or correspondence, then I'll ask if there's anybody else that needs to address this. You want to do that first? Come on up.

MS. ESPOSITO:

I thought you were moving on. Good afternoon, Legislators. My name is Adrienne Esposito, and I'm representing Citizens Campaign for the Environment. We are also here today to ask you to please support the creation of Suffolk County Department for Environment and Energy, Introductory Resolution 1345. Why you may ask. Because the answer is it's a rare opportunity to not increase taxpayer dollars and yet serve the public better. There aren't many opportunities like that, and this is one. Having one Department of the Environment where we can streamline the process for land preservation, drinking water protection, estuary protection, parks, wetlands, cancer awareness and energy policy just makes good sense for the public.

You may •• you know, we have been coming down to this Legislature for 19 years, I can hardly believe that actually. But I have seen first hand where having different entities in the County has hurt the process of environmental protection. Give you one brief example, with Peconic River clean up, for example. I have seen where the Parks Department had one position, Suffolk County Health Department had another position, which was the right position, by the way, and

then the County Exec's office a couple of years ago had a completely different position. So we had three County entities with completely different positions on one environmental issue, and that's not good for the public, it's certainly not good for the County, and it wasn't good for the clean up process. And I truly believe if we have one department •• and that's just one example •• it will streamline the process, it will help us, it will serve the public better. That's what you want, that's what taxpayers want. So please support the legislation. Thank you.

CHAIRMAN ALDEN:

Thank you. One other hand went up.

MR. DONNELLY:

Thank you very much. I'm Robert Donnelly. I'm the Director of Information Services. In June of this year we delivered •• Information Services, a report regarding the details and costs associated with providing Suffolk County employees with protection against identify theft. It was a pretty comprehensive report. We delivered it to the full Legislature. At that point, we committed to come back before this committee, because that's the mechanism it took, to answer any questions. We promised to do that at this meeting. In the interest of time and the lateness of the hour, if you would like us to come back again, we'll certainly be glad to do that if indeed there were questions on the report.

CHAIRMAN ALDEN:

Warren is going to coordinate with you, because this •• we weren't sure when this meeting was going to take place, because ••

MR. DONNELLY:

Legislator Alden, not a problem. Just have someone shoot me an e•mail or give me a call, we'll come back at your convenience and discuss it at length.

CHAIRMAN ALDEN:

We won't shoot you but we'll send a little e•mail over to you.

CHAIRMAN ALDEN:

There's another hand going up. Come on up.

MR. _KINDLER_:

Hello. My name is Ken _Kindler_, and I would like to speak to you about the Introductory

Resolution 1345. I know you have already heard quite a bit about it. I won't go over the same
 •• same tracks that the other people have. One thing I would like to say, and I am very much aware of, you know, how statistics don't necessarily say everything. But both my parents lived in Mount Sinai and died of cancer, my mother of breast cancer. Granted that probably is just a coincidence. But what I do need to talk about is the condition of this really incredible resource that we have in Suffolk County.

I'm on the Board of Directors of the Long Island Greenbelt Southampton Trails Preservation Society, Chair of the Save Trails Coalition, creator of the Hiking Long Island Website. And I administer that website, which gets an incredible amount of hits now. I do all of this not because I make a profit from it, just because I care very deeply about our natural open space [.] [.] I care very much about it. And I walk on, you know, on the average about 100 miles of trail a week. I go to innumerable meetings. I spend all of my time, all my free time, and people ask me what do I do for a job. Well, this is what I do. A job, well, I don't know. I'm bringing in a negative eight grand a year.

I don't think there's anybody in the County who is as intimate with our natural open space as I am. I'm watching it, and I'm walking it, and I see it degrading before my eyes. I know that there are all kinds of initiatives taking place to protect this treasure. Of course, I know, because I work with all the people who are doing it. But my feeling is that it's not enough. And that if we just follow a straight line, heck, you don't need a crystal ball to see where we'll end up.

I think that we should give the County Executive and Mike Deering a chance to try something, because we really do have to try something. It's not going to be here for our grandchildren if we keep doing what we're doing. And I'm not faulting the people who I'm talking to, because I know they care. But we really do need to do something. And I would like to support, you know, Steve Levy's attempt. He's trying something. And a lot of times I see that when you try something, you get adventitious results; people sit around and they discuss, you know, how something is going to work out and they come up with all kinds of reasons why there's going to be problems and how it's not going to work.

CHAIRMAN ALDEN:

Your time expired. Just sum up, please.

MR. DONNELLY:

Yes. Sure. I'll sum up real quickly. I'll invite every one of you on a hike with me. I'd love to walk with you, I'd love to share the beauty of Suffolk County with you. Unfortunately, I can only think of one Legislator here who I've actually walked with. But I'd be glad to offer that.

CHAIRMAN ALDEN:

Thanks a lot.

LEG. MYSTAL:

Who is that you walked with? Who did you walk with?

CHAIRMAN ALDEN:

Okay. From this morning, and these are two public hearings that were scheduled for 9:30 this morning, then we ran into little bit of a problem with scheduling, because the Special Meeting was called. So these were recessed to 4:30 •• actually 4:25 p.m. And that's **1686, adopting a local law, a Charter Law to ensure due deliberation of legislation.**

Is there anybody who wishes to speak on ••

MS. CAPUTI:

I'd like to speak on that, please.

CHAIRMAN ALDEN:

And just to continue what was said this morning, Ilona, where the publications and all that in proper order, and do you have possession of all that documentation?

MS. JULIUS:

Yes, Mr. Chairman. I have everything in proper order and dually filed.

CHAIRMAN ALDEN:

Thank you very much. Hi. Just identify yourself for the record, please.

MS. CAPUTI:

Yes. I'm Jacqueline Caputi from the County attorney's Office. I just wanted to state our concerns with this bill that would require the County Executive to state its specific reasons for a Certificate of Necessity. As I'm sure you are aware, of the New York State Municipal Home Rule Law addresses passage of local laws and Certificates of Necessity. And it imposes no

requirement on a County Executive to take such action. And the Municipal Home Rule Law also says that local government, such as the County, cannot enact local laws that are inconsistent with state law. And it's our position that this would be inconsistent because the Municipal Home Rule Law does not impose such a requirement on County Executives.

CHAIRMAN ALDEN:

Sorry to interrupt, but have you spoken to Legislator Montano about your concerns?

LEG. MONTANO:

No.

MS. CAPUTI:

I actually have not, no.

CHAIRMAN ALDEN:

Okay. Legislator Crecca has a question.

LEG. CRECCA:

First of all, I'd direct the Clerk to list me as cosponsor on the bill. My question is I understand your concern, but I don't see how that •• us putting an additional requirement, it doesn't interfere with New York State Law, we're not changing New York State Law. We're just having an additional County requirement.

MS. CAPUTI:

Well, it's in conflict with it, because ••

LEG. CRECCA:

How is it in conflict with it?

MS. CAPUTI:

Because the state sets out how you are to enact local laws, and you're imposing an additional requirement on an elected official that's not currently, you know, required.

LEG. CRECCA:

A Certificate of Necessity ••

MS. CAPUTI:

To state specific reasons therein would be an additional requirement that is not called for under state law. It just says that he can issue Certificates of Necessity, he or she.

LEG. CRECCA:

Well, we have rules all the time about enacting •• now it has to go through the Rules Committee, is that also in violation of state law?

MS. CAPUTI:

What has to go through the Rules Committee?

LEG. CRECCA:

All local laws and charter laws. It doesn't say anything in New York State that it has to go through our Rules Committee.

MS. CAPUTI:

No. Well, the state doesn't address that, but it does address Certificates of Necessity, specifically in the statute. So it's in conflict. I don't know of any provision in the Municipal Home Rule Law that talks about rules. That would be, you know, different than what you're eluding to.

LEG. CRECCA:

Counsel. Because I don't see how it's in conflict to put an additional Requirement.

MS. KNAPP:

I believe the Charter County •• the Municipal Home Rule Law allows us to enact charter laws that are at variance. Although I think I would disagree that this one does not •• it certainly doesn't conflict. It does add a requirement, but I don't think it conflicts with the state law. I would disagree on that.

LEG. CRECCA:

I will make a motion ••

CHAIRMAN ALDEN:

There's some people who want to speak.

LEG. CRECCA:

I didn't realize there were more speakers. I apologize.

CHAIRMAN ALDEN:

Legislator Vilorio•Fisher.

LEG. VILORIA•FISHER:

Thank you, Mr. Chair. With regards conflicting with state charter. We don't •• this particular legislation does not prohibit the introduction of Certificates of Necessity by the County Executive. What we're doing here, and I commend Legislator Montano, because whenever we • • whenever there is a Certificate of Necessity introduced, there is generally a question asking why is there a Certificate of Necessity? Is there an issue of timeliness involved? Is the Certificate of Necessity for a specific reason? We can't just use the circular reasoning that it's a Certificate of Necessity because it's necessary. We need to •• we're asking for more specificity.

If we were to have a one line statement saying it's a Certificate of Necessity because we have a deadline that we must meet or there •• some sort of reasoning as to why this Certificate of Necessity is necessary. I think it would help to streamline the dialog and direct us to making the right decision. So I believe that it would be •• it would enable us to have clear deliberation of our decision. I don't see it at all in conflict with the state charter. It doesn't prohibit a CN from being introduced.

MS. CAPUTI:

Intelligent minds will disagree.

CHAIRMAN ALDEN:

We have Legislator Montano with us today who is a guest on this committee, and certainly a welcomed guest.

LEG. MONTANO:

Thank you. I have to apologize to you, because I walked in in the middle of your presentation,

but can you just quickly reiterate what it was that you were eluding to with respect to this bill being in conflict with the state charter?

MS. CAPUTI:

New York State Municipal Home Rule Law does establish the procedures for enactment of local laws, and it does touch of Certificate of Necessity. And it does not require a County Executive to state reasons. It just says that the County Executive may issue Certificates of Necessity. Further, the New York State Municipal Home Rule Law also says that though counties can enact local laws effecting their government and property and those types of affairs, they cannot enact local laws that are in conflict with the Municipal Home Rule Law.

LEG. MONTANO:

From what you just stated, I don't understand how this bill is in conflict because the state charter, at least the way you explained it, and haven't read the rule lately, the Municipal Home Rule lately, but it doesn't appear that this bill is in conflict, but I won't debate the issue with you. More importantly, and I think this issue has come up before with respect to some of the other Legislators who had bills before this body, then the County Attorney would come in and make a statement that the bill was either in violation of a law, etcetera, without notifying the sponsor of the resolution. Now, in this case, I have not been notified by anybody in the County Attorney Office that there was an issue with respect to the legality of the bill. Had I been so advised, and had I agreed with that, I might have been in the position to address the issues, which I can't do today. Do you have •• have you come before us with an oral or verbal opinion, or do you have an internal memorandum or a legal opinion that affects or that at least addressed the comments that you made now? Or is this simply from, you know ••

MS. CAPUTI:

It's based on legal research that my office performed and discussed among the attorneys.

LEG. MONTANO:

That's where I'm going. So you have actually documented in a legal opinion the basis for your opinion now?

MS. CAPUTI:

No. I said that I had researched the issue and that we had discussed it in house among the attorneys and decided that we wanted to make our point at the meeting.

LEG. MONTANO:

All right. But just so I'm clear, when you research an issue and you discuss it, you don't reduce •• you don't issue a memorandum? In other words, you just have a general conversation amongst lawyers, and lawyers will differ with respect to different issues; is that accurate?

MS. CAPUTI:

It depends on the particular issues. Sometimes we do and sometimes we don't.

LEG. MONTANO:

Would you be prepared to provide a legal opinion from the County Attorney's Office written that ••

MS. CAPUTI:

On this particular bill?

LEG. MONTANO:

On this particular issue, outlining •• because obviously there's more than two sides to a story.

MS. CAPUTI:

Sure. Well, that's usually the way it is in legal circles as I'm sure you're aware. I will discuss it with Ms. Malafi, and I imagine it would be okay, but I would like to run it by her first.

LEG. VILORIA • FISHER:

Are you saying you don't want to close the hearing then?

LEG. MONTANO:

No. We'll close the hearing.

LEG. CRECCA:

Would you yield for a second?

LEG. MONTANO:

Sure. Absolutely.

LEG. CRECCA:

I don't understand. You come here and give a legal opinion, a Legislator asks for that opinion in writing, are you saying that you have to check with Ms. Malafi as to whether or not you can give us a legal opinion in writing?

MS. CAPUTI:

Well, I did research the issue, but I'm not the County Attorney, and I don't want to promise to give something in writing. I think it's okay, but I'd like to run it by her.

LEG. CRECCA:

You are our attorney. You are our attorney as much as the County Executive is our attorney (sic). And I think when a Legislator asks for ••

MS. CAPUTI:

I'd be happy to provide him something •• I'm not saying, you know, that it's going to be •• I don't know exactly what nature he wants it in, but we could certainly put something in writing for him.

LEG. CRECCA:

I think Legislator Montano's concern is the same one that we all share. If you are going to come down here and say that you don't think a bill is legal, which is what you're doing, okay? We've asked before, we've been told we would have the courtesy of you reaching out to the Legislator before the meeting. But that's not happening, and we will accept that, because obviously we've now asked on at least six, seven, maybe eight occasions in my presence on the public record that you contact the Legislators before you come down here and you say that you don't think a bill is legal for us to pass.

Now what we're saying is you've now made a representation on the public record, which is a public record, which will be published in a book for everyone to read. And you have given a legal opinion. If you're going to give a legal opinion, then I would suggest that if a Legislator asks for it in writing, that you be prepared to do that and back it up with case law. That's all. Case closed. You will do it, because you are being directed to do it by a Legislator for whom you work for. End of story.

CHAIRMAN ALDEN:

I recognize Legislator O'Leary.

LEG. O'LEARY:

I don't know if I want to follow up to that. I just •• just an observation on my part. This proposal doesn't in any way diminish the impact or effect of existing state law, does it?

MS. CAPUTI:

No. You can't do that to state law.

LEG. O'LEARY:

Exactly. Exactly. But is there anything that says we can't enhance existing law?

MS. CAPUTI:

Well, that depends on the interpretation of enhance.

LEG. O'LEARY:

Obviously, the enhancement •• there isn't a conflict in my mind with respect to the existing law. It's not diminishing in any way, shape or form. This proposal is an enhancement over existing law •• existing state law in my opinion. It just causes the Executive to cite a reason why he is submitting a CN.

MS. CAPUTI:

With all due respect, like I said, intelligent minds will disagree especially in legal circles.

LEG. O'LEARY:

All right.

CHAIRMAN ALDEN:

Legislator Montano.

LEG. MONTANO:

Counselor, I just want to go back to the issue of the legal memorandum. I'm an attorney also. I've practiced for many years.

MS. CAPUTI:

Yes. I'm aware of that.

LEG. MONTANO:

It seems to me an inappropriate policy for the County Attorney's Office to come before the Legislature and say, I did some research and I discussed it with some attorneys, and therefore, I'm putting, as Legislator Crecca said, on the record my legal opinion with respect to this issue. I don't think that's sufficient. I as a Legislator, if I'm going to vote on a bill and my counsel who is the County Attorney has some legal objections to that bill, I want to be able to read those objections, I want to be able to analyze •• I want to be able to do it before I'm asked to vote on the bill. So this has come up on a number of occasions, and I think it's •• it's unfortunate that we are back here now.

I certainly would have liked to have known that you had some objections on this bill, some legal objections, forget about the policy objections, because I could have done my own research and I could have discussed it with my own group of attorneys. And I'm sure we would have come up with a different opinion. But I'm really talking about the process. I think •• you know, what I'm saying is it's not enough for me •• I don't know how my colleagues feel, it's not enough for me for you to come here and say, we did X and Y, but we stopped there, because, you know, when you are talking about constitutionality or legal sufficiency, and I've had this conversation with Counsel, I don't want to pass a bill because we have the presumption of validity. If you have a real question on it, put it in writing and let us deal with it. And it's not enough to say well, you know what, I'm going to go back to my boss and see whether or not she wants to put it in writing because you have already put it on the record. I do want it in writing, but I'm not going to hold up the •• you know, the passage of the bill if in fact it's going to pass, because I'd like to see those reasons.

MS. CAPUTI:

Sure.

CHAIRMAN ALDEN:

As a point of information, your boss is sitting in the back there. So that a Deputy County Attorney with all the authority I would believe would be necessary. You can just step back there if you want and, you know, work it out as far as getting some •• r•e•s•p•e•c•t is

something that •• maybe a little message to take back. I'm not going to sing the rest of it for you.

LEG. CRECCA:

Thank God.

CHAIRMAN ALDEN:

Now, Legislator Montano is not a member of this committee, but motion to close by Legislator Crecca, seconded by Legislator Vilorio • Fisher All in favor? Opposed? 1686, that is **CLOSED**.

(VOTE: 7 • 0 • 0 • 0)

1687, another public hearing, a charter law to clarify delegation of responsibility during absence or disability of County Executive. (CRECCA)

And we have Mr. Ben Zwirn to speak on this.

MR. ZWIRN:

Thank you, Mr. Chairman. I was as surprised as Legislator Montano and the rest of you. I wasn't aware that the County Attorney's Office had a problem with this particular bill. We had discussed this bill as late as yesterday, so I'm little bit surprised, but it just goes to show you the independence of the different branches of government here. Sometimes nobody knows what's going on. At any rate, with respect to this particular bill, this local law, there are •• we have some problems with this. Not with the author of the bill necessarily. But first let me ask what is the need for this particular bill since the sponsor is here, if I could ask him, because it will have an impact on the County Executive's branch of government.

CHAIRMAN ALDEN:

Actually, Ben, we're going to be debating the bill in a few minutes. This is, you know, like, to listen to comments from the public.

MR. ZWIRN:

Okay. Then I'll make some, because it will have an impact with respect to the Deputies in the County Exec's Office sending out memos they believe to their own staff, the budget director, with the chief deputies regarding SCIN forms and things of that sort. It will have a detrimental impact for them to be able to carry out the powers of the County Executive. So they are opposed to the bill in principle. And I think there are some legal arguments that the County

Attorney's Office wants to make, and I think we'll all be glad to hear what they might be. But on behalf of the County Executive, we have •• we have serious reservations about this particular legislation.

CHAIRMAN ALDEN:

Thanks, Ben. Anybody else want to address us during this public hearing on IR 1687?

MS. CAPUTI:

Hello again.

CHAIRMAN ALDEN:

You just have to put your name on the record again.

MS. CAPUTI:

I will. It's Jacqueline Caputi from the County Attorney's Office. Our legal analysis of this bill also brought up some issues that we felt merited some consideration by the Legislature. And that would be that, as you know, I'm sure, the county charter gives the County the authority •• the authority to appoint deputies and to delegate duties to them. And it makes the County Executive the Administrative Head of the County Government. We feel that this bill would be limiting or curtailing the power of an elected official, and therefore, it's subject to a mandatory referendum pursuant to the Municipal Home Rule Law.

CHAIRMAN ALDEN:

Now before my colleague to my left goes nuts, have you prepared a Memorandum of Law on this? And did you discuss this with Legislator Crecca?

MS. CAPUTI:

We will present a formal opinion before the General Meeting. I just discussed that with the Deputy County Attorney, and we will prepare a formal opinion on this.

CHAIRMAN ALDEN:

But you haven't discussed this with ••

MS. CAPUTI:

I have not spoken to Mr. Crecca about it •• Legislator Crecca.

CHAIRMAN ALDEN:

Legislator Crecca.

LEG. CRECCA:

I'm trying to figure out, doesn't the charter give the authority that we're talking about to the Deputy County Executive?

MS. CAPUTI:

It gives the County Executive the authority to appoint deputies is what I was saying. And there's also a section that says he can •• he appoints one deputy to sign things, yes. Is that what you're referring to?

LEG. CRECCA:

It says the County Executive shall designates one deputy to perform the administrative duties of the County Executive during his temporary absence or disability and shall file such designation with the County Clerk, which he has in this case. The acts so performed but such deputy shall have the same affect on law as if performed by the County Executive. We're not changing that. We're just adding ••

MS. CAPUTI:

Yes. There's an additional section that says he can appoint deputies to assist him in his duties.

LEG. CRECCA:

We're not curtailing his •• we're not curtailing his ability to appoint those deputies. As a matter of fact, we gave him a couple of extra deputies this year. Then all we're saying is that when •• when he performs the signatory responsibility of the County Executive, a specific part of the County Executive's duties, we take out all department head memorandums, CNs, execution of contracts, all those things we're still going to do. But there's an expectation that the County Executive will be performing his duties absent his temporary inability to do so. So we just want an explanation as to when he performs this at a higher level, and that's what I think this bill does. So I don't ••

MS. CAPUTI:

Well, on every occasion it would onerous. It would be an onerous duty on the County

Executive. And general law of New York State •• the statute's general law does not allow a statute to be interpreted that's going to produce absurd or inconvenient results. So if this statute were challenged hypothetically, that would be the argument, that it's putting an onerous burden and it's causing inconvenience every time an act is going to be done to file something before the County Clerk before it can, you know, be official.

LEG. CRECCA:

What are the signatory times that the County Executive performs his signatory power?

MS. CAPUTI:

What are the signatory times?

LEG. CRECCA:

What are the signatory powers •• responsibilities of the County Exec ••

MS. CAPUTI:

Well, that's another one of our problems with the bill, that we don't feel that signatory responsibility is adequately defined.

LEG. CRECCA:

Okay.

MS. CAPUTI:

It's vague, it's ambiguous, which, you know, leads to interpretation, as I'm sure you are aware.

LEG. CRECCA:

I think I'll refrain from debate at this point with the County Attorney. I'm done.

CHAIRMAN ALDEN:

More questions from Legislator Mystal.

LEG. MYSTAL:

I don't have any questions for her. I just want to debate the bill.

CHAIRMAN ALDEN:

We've got to get through the public hearing. Now we're going to jump over to Legislator Vilorio •Fisher.

LEG. VILORIA • FISHER:

I'm confused. I'm just not clear on the reason why this particular bill was introduced, but that's •• I'll ask that later during our portion of the meeting. But I would like to ask the County Attorney's Office how does this create an onerous situation for the County Executive if it's the designated official who will be acting on behalf of the County Executive if he is disabled or temporarily absent? How does that put the onus or burden on the County Executive? I was confused when you made that comment.

MS. CAPUTI:

Well, his office. Every time that the person is going to do this ••

LEG. VILORIA • FISHER:

So you weren't referring to the person, you were referring to the Office of the County Executive. So it would be onerous upon the Office of the County Executive.

MS. CAPUTI:

Correct. I'm sorry. Just the every day working of government in his office.

LEG. VILORIA • FISHER:

But notwithstanding the exceptions that are here; contracts, CNS, Standard Operating Procedures, all department head memoranda •• but can you explain what signatory responsibility is?

MS. CAPUTI:

No. I mean, that's what I just said to Legislator Crecca, that I don't ••

LEG. VILORIA • FISHER:

If it's not any of those things that are accepted, then what would the signatory responsibilities be other than those?

MS. CAPUTI:

Well, the bill doesn't define it, so.

LEG. VILORIA • FISHER:

So then how are you arriving at the conclusion that it would be so onerous.

MS. CAPUTI:

Well, there are other things that the County Executive has to sign besides those things. And those other things every time that someone else would do that would have to be filed with the County Clerk is onerous.

LEG. VILORIA • FISHER:

Okay. Excuse my ignorance, just bear with me. What I'm trying to do is get some kind of idea of what those other things are.

MS. CAPUTI:

Resolutions, local laws are not accepted from the bill. You know, I don't work in the County Executive's Office, so perhaps Mr. Zwirn can give you a better idea.

LEG. VILORIA • FISHER:

I'm just trying to understand what this law is doing.

CHAIRMAN ALDEN:

Stepping up to microphone, Ben Zwirn.

MR. ZWIRN:

They would be SCIN forms, memos to department heads.

LEG. CRECCA:

That's excluded.

MR. ZWIRN:

I'm just saying. We want to make sure ••

LEG. VILORIA • FISHER:

SCIN forms are excluded? No.

LEG. CRECCA:

No.

MR. ZWIRN:

Right now Kevin Law does all that work for Steve after consultation. But, you know, I don't know if they think the County Executive is not working hard enough or what that they want him to do more or to bring a note from home saying that, you know, somebody else should be responsible for •• you know, he's not going to be able to be there today. So, you know, I don't know exactly what we're driving at here.

LEG. VILORIA • FISHER:

I'm not certain either.

MR. ZWIRN:

That's why I'm looking forward to getting to the debate of the bill.

CHAIRMAN ALDEN:

We'll get to the debate. This is for public comment.

LEG. VILORIA • FISHER:

So your interpretation of it is that if the County •• that if anyone in the County Executive's Office signs anything at any time, that they would have to show why he is temporarily unable to do it, is that what you're saying?

MR. ZWIRN:

That's correct.

LEG. VILORIA • FISHER:

That's how you are interpreting what this is saying?

MR. ZWIRN:

That's correct.

LEG. VILORIA • FISHER:

Okay. All right. Thank you. Thank you, Ben.

CHAIRMAN ALDEN:

I don't know if Ben can answer this or maybe somebody from the County Attorney's Office. I just had a scary thought. If anybody saw the movie Dave, they might have had the same thought. Now, if there is a disability on the part of the County Executive, right, so his designee can operate for him, right? Now, how about if that disability is almost, like, permanent where, you know, the County Executive can't really function, but he's still alive?

LEG. MYSTAL:

Do•dum, do•dum, do•dum, do•dum.

CHAIRMAN ALDEN:

Yeah, you've got it. What happens in that case? Does the designee serve out the full term or does there have to be a special election?

MR. ZWIRN:

I don't know. The State of Mississippi elected a dead man to be a United States Senator. So I don't know exactly where we go.

CHAIRMAN ALDEN:

I'm not sure they could swear him in though. That might have been the problem. You know, if the County Attorney's Office could do a little research on, you know, like this, I know they're involved in it, could you just give me an opinion on that too. What happens in the case of a debilitating ••

LEG. CRECCA:

Emi, you may want to stay for this.

CHAIRMAN ALDEN:

•• a debilitating either injury or illness where the County Executive is not able to function and it looks like it's going to be a long term thing, who ends up serving? Does his designee serve out the term or is there a special election? Maybe you can include that in ••

MR. ZWIRN:

I think we go to the 25th Amendment at that point. I'll defer to the County Attorney.

MS. CAPUTI:

Legislator Alden, it's Section C•3 10 of the Suffolk County Code addresses vacancy in office, and there would be a special election depending on when it happens.

CHAIRMAN ALDEN:

Who declares that vacancy, like, if he's •• he's got to be permanently injured?

MS. CAPUTI:

I don't think it's that specific, but I'll look into it for you.

CHAIRMAN ALDEN:

Thank you.

MS. CAPUTI:

You are welcome.

CHAIRMAN ALDEN:

Any other members of the public or government entities want to address us on this?

LEG. CRECCA:

Motion to close.

CHAIRMAN ALDEN:

Legislator O'Leary? Motion to close by Legislator O'Leary, seconded by Legislator Crecca. All those in favor? Opposed? Okay. 1687 is **CLOSED. (VOTE:7•0•0•0).**

LEG. MYSTAL:

What happened to the debate on this?

LEG. CRECCA:

It's on the agenda later on. Or we can take it out of order and do it now. Motion to take it out of order.

CHAIRMAN ALDEN:

Now we'll go the agenda. Tabled resolutions.

TABLED RESOLUTIONS

1222•2004. Adopting Local Law No •• 2004, a Charter Law to mitigate County liability by expanding prior written notice of defective condition requirement. (COUNTY EXEC)

LEG. CRECCA:

Motion to table subject to call.

CHAIRMAN ALDEN:

Second by myself. All those in favor? Opposed?

LEG. LINDSAY:

Opposed.

LEG. VILORIA•FISHER:

Opposed.

LEG. MYSTAL:

Opposed.

CHAIRMAN ALDEN:

Opposed, Legislator Lindsay, Legislator Viloría•Fisher and Legislator Mystal. **TABLED SUBJECT TO CALL. (VOTE:4•3•0•0).**

1223•2004. Adopting Local Law No •• 2004, a Charter Law amending the Suffolk County Charter to require the adoption of a reapportionment plan in a timely manner. (MONTANO)

LEG. MYSTAL:

Motion to approve.

CHAIRMAN ALDEN:

Motion to approve by Legislator Mystal, seconded by Legislator Viloría•Fisher. All those in

favor?

CHAIRMAN ALDEN:

I'm going to abstain.

LEG. CRECCA:

Opposed.

LEG. NOWICK:

Opposed.

LEG. O'LEARY:

Abstain.

CHAIRMAN ALDEN:

That **FAILS. (VOTE:3•2•2•0) (Opposed; Legis. Crecca and Nowick) (Abstentions; Legis. Alden and O'Leary).**

1277•2004. Adopting Local Law No •• 2004, a Local Law amending Local Law 2 •1999, to expand the Home Improvement Contract Licensing Law to add new home construction. (VILORIA•FISHER)

LEG. VILORIA•FISHER:

Motion to table.

CHAIRMAN ALDEN:

Motion by Legislator Viloría•Fisher, seconded by myself. All those in favor? Opposed?

TABLED. (VOTE:7•0•0•0)

1345•04. A Charter Law creating a County Department of Environment and Energy. (COUNTY EXEC)

LEG. MYSTAL:

Motion to approve.

LEG. VILORIA•FISHER:

Second.

CHAIRMAN ALDEN:

Motion to approve by Legislator Mystal, seconded by Legislator Viloría•Fisher.

LEG. LINDSAY:

On the issue.

CHAIRMAN ALDEN:

On the issue, Legislator Lindsay.

LEG. LINDSAY:

Is everyone aware that we have a modified version of the bill, it's been cut down from 34 pages to nine or seven?

LEG. CRECCA:

It's in readable format now.

LEG. LINDSAY:

I just want to make sure everyone is aware of it. Forget the original, You have to look at the revised.

CHAIRMAN ALDEN:

To answer your question, I wasn't aware of that, but my Legislative Aide Warren Greene brought this to my attention about a week and a half ago and had me sit down and actually look at the revised copy. So I'm right on top of it.

LEG. CRECCA:

On the motion.

CHAIRMAN ALDEN:

There's a new revision as of last night too.

LEG. CRECCA:

On the motion, Mr. Chairman.

CHAIRMAN ALDEN:

Legislator Crecca.

LEG. CRECCA:

My opinion is that this move is unnecessary, first of all. Second of all, I am very concerned about how much this bill weakens the Planning Department, which I really believe we have •• one the greatest assets we have here in our County is not just the Commissioner himself •• Director of Planning, but that whole department. And I will be voting against this bill.

LEG. VILORIA•FISHER:

On the motion.

CHAIRMAN ALDEN:

Legislator Mystal and then Legislator Viloría•Fisher.

LEG. MYSTAL:

Just how do you think it weakens the Planning Department? I'd like to hear that.

LEG. CRECCA:

I think that it takes authority away and redirects that authority where it doesn't belong as far as dealing with parcels ••

LEG. MYSTAL:

Have you read •• have you read the revision?

LEG. CRECCA:

I reviewed the revision, I'm familiar with the revision, because a lot of those were recommendations that I made, the revisions. And I praise the County Attorney for •• I mean, the County Executive's Office for responding to some of those. It's no reflection on Mr. Deering, I have a great admiration for him and the work he has done, but I'm not going to create another governmental department. I also don't like the overlap that occurs here between departments, the Health Department overlapping. It just doesn't work for me. You know, it's a difference of opinion.

CHAIRMAN ALDEN:

Legislator Vilorio • Fisher.

LEG. VILORIO • FISHER:

Thank you, Mr. Chair. It's precisely because there is an intrinsic overlap of themes, duties, interests and impacts that we need this department. No man is an island. If you have •• or butterfly effect to be more contemporary. If one thing happens in the Planning Department, if decisions are made in Planning, they do have effects on environmental issues. Environmental issues also inform or impact on planning issues. Energy, if we are going to look at an energy master plan for Suffolk County, we must integrate that with the Planning Department with a master plan for planning. If we are going to ask New York State to expand and in some ways refocus their mapping project for breast cancer study, well, it certainly would be helpful to have the oversight of a department such as this so that you can integrate and look holistically in a broad manner at development, environmental issues, energy issues.

So there could be one depository of all of this information and one place where you can go to try to find the answers to specific issues. Our world is so complex that we can't always pigeon •hole problems into small separate and distinct boxes. We must look at things holistically and in an integrated manner. This type of department is the way to be visionary, to look to the future, to try to create some kind of master plan for Suffolk County that would overlap, energy environmental and health issues. When we talk about environment, we talk about the protection of open space, and we look at the Planning Department and look at Real Estate. However, when we talk about environment we also have to go to the Health Department and see what the Division of Environment is doing in the Health Department. So they are already integrated and they overlap because life overlaps. We can't be simplistic about how we approach real and complex problems. This particular division will help to •• or department, I should say, would help to look at integration of very, very important complex and substantive issues. I will be supporting it.

CHAIRMAN ALDEN:

Any other Legislators? I'm just going to make a brief comment or a couple of brief comments. I think that this would be more appropriate as a committee, as an operating committee. I have a deep fear that a cancer sufferer or a cancer survivor would get lost in the maze. And as each one of you know, we handle hundreds of calls if not thousands of calls a year, like, where do I go for help, who do I talk to in County Government. And I've read this. I've read the revisions. I like the idea that the County Executive and all the people who worked on this have

shown this to be a concern for everybody in Suffolk County. But I would much more •• I would really like to see it as an appointed committee to bring everything together and really eliminate some government, because I think our government is a little bit more complex than our people would like. So when they make a phone call, I think they get lost in the maze as it is now, and I think this would actually confuse a lot of people. If anybody else wants to make a comment.

LEG. VILORIA • FISHER:

May I just respond to that?

CHAIRMAN ALDEN:

Absolutely. Go ahead.

LEG. VILORIA • FISHER:

I don't see the role of the Commissioner of this Department to be a constituent line that people would access directly to him. There are certainly many divisions within that department, and certainly we as Legislators would be responding to those constituent services. And we would know that there would be a point person that we could go to who would understand the intricacies of that overlap of services that exists throughout the County.

You know, I couldn't see it as even conceivable that we would say, well, that person would be answering all constituent issues. It doesn't work that way. Our constituents don't contact our Planning Director when they're looking at planning issues, they don't contact our Commissioner of Health when they have a question of Vector Control. There are people in place in the department to deal with those constituent issues.

So I really don't believe that that argument is the argument that should sway you against this very, very important department.

CHAIRMAN ALDEN:

That's why, you know, there's 18 Legislators.

LEG. VILORIA • FISHER:

That's why it's a democracy.

CHAIRMAN ALDEN:

Among those 18 Legislators there can be hundreds of differing opinions. All right. I'm going to call the vote on this. We have got a motion to approve, and I think it was Legislator Mystal, and a second by Legislator Viloría•Fisher. All those in favor? The ayes are Legislator Viloría •Fisher, Legislature Lindsay and Legislator Mystal. All those against?

LEG. CRECCA:

Opposed.

LEG. NOWICK:

Opposed.

CHAIRMAN ALDEN:

Abstaining.

LEG. O'LEARY:

Opposed.

CHAIRMAN ALDEN:

Three opposed and one abstention. That **FAILS. (VOTE:3•3•1•0) (Opposed; Legis. Crecca, Nowick, and O'Leary) (Abstention; Legis. Alden).**

1350•2004. Authorizing removal hearing for members of the Suffolk County Water Authority. (Eric Russo) (VILORIA•FISHER)

CHAIRMAN ALDEN:

Just before we debate this, Legislator Fisher, I had the letters ready to go, but then I was informed that we were having a special meeting and we wouldn't know what time this meeting would take place. So I held off, and I invited them to the next meeting. So it would be your decision to just table this to next meeting.

LEG. VILORIA•FISHER:

Absolutely. Thank you, Mr. Chair.

CHAIRMAN ALDEN:

Motion to table by Viloría•Fisher, seconded by myself. All those in favor? Opposed? 1350 is **TABLED** until the next meeting. **(VOTE:7•0•0•0)**

1454•2004. Adopting Local Law No •• 2004, a Local Law establishing anti •corruption act for County contracts. (COOPER)

LEG. MYSTAL:

Motion to approve.

CHAIRMAN ALDEN:

Motion to approve by Legislator Mystal.

LEG. VILORIA•FISHER:

Second.

CHAIRMAN ALDEN:

Seconded by Legislator Viloría•Fisher. All those in favor? Opposed? That's **APPROVED. (VOTE:7•0•0•0).**

1465•2004. Establishing policy on use of County Clerk's Office for title examination purposes pending County Center renovation. (CARACCILO)

LEG. VILORIA•FISHER:

Motion to table.

CHAIRMAN ALDEN:

I didn't get a chance to talk to Legislator Caracciolo about this.

LEG. O'LEARY:

Second the motion.

CHAIRMAN ALDEN:

We have a motion by Legislator Viloría•Fisher to table, seconded by Legislator O'Leary. All those in favor? Opposed? 1465 is **TABLED. (VOTE:7•0•0•0).**

1519•2004. Adopting Local Law No •• 2004, a Local Law creating Geographic Information System Committee. (COUNTY EXEC)

LEG. LINDSAY:

Motion.

CHAIRMAN ALDEN:

Motion to approve by Legislator Lindsay.

LEG. VILORIA•FISHER:

Second.

CHAIRMAN ALDEN:

Seconded by Legislator Viloría•Fisher.

LEG. CRECCA:

Explanation. Oh, that was the one you spoke about earlier?

MR. DALY:

Yes.

CHAIRMAN ALDEN:

I'll make a motion to table.

LEG. CRECCA:

Second.

CHAIRMAN ALDEN:

Seconded by Legislator Crecca. All those in favor? Opposed?

CHAIRMAN ALDEN:

Legislator Lindsay's opposed to table, Legislator Viloría•Fisher is opposed to table.

LEG. VILORIA•FISHER:

GIS is a tremendously important tool. Can we consider ••

CHAIRMAN ALDEN:

I'm sorry. I should have given a little explanation too. On 1519, before I came over here I had about ten phone calls, and I was answering the phone so people were getting directly to me,

they needed an opportunity to come and speak on this, and I really couldn't tell them what time to come down. So at the next committee meeting, there will be other people to speak on this.

LEG. VILORIA • FISHER:

Okay. Thanks for the explanation.

CHAIRMAN ALDEN:

There's a motion to table and a second. All those in favor? Opposed?

LEG. MYSTAL:

Opposed.

CHAIRMAN ALDEN:

Legislator Mystal is opposed to tabling. **TABLED. (VOTE:6 • 1 • 0 • 0) (Opposed; Legis. Mystal).**

1580 • 2004. Adopting Local Law No. 2004, a Local Law to amend Financial Disclosure Law. (CARACCILO)

CHAIRMAN ALDEN:

I didn't get a chance to talk to the sponsor on that.

LEG. O'LEARY:

Motion to table.

CHAIRMAN ALDEN:

Motion to table by Legislator O'Leary, seconded by myself. All those in favor? Opposed? 1580 is **tabled. (VOTE:7 • 0 • 0 • 0).**

1627 • 2004. Authorizing legal action against oil companies to obtain price relief for consumers. (LINDSAY)

LEG. LINDSAY:

Motion to approve. Since we last addressed the bill, it's been modified. It calls for the County Attorney's Office to look into the feasibility of this lawsuit and to find outside counsel that would work on a contingency basis so there would be no cost to the County.

CHAIRMAN ALDEN:

Legislator Lindsay, this is just •• when we give this question to the County Attorney's Office, they have to come back to us for approval to start the lawsuit?

LEG. LINDSAY:

I believe it's asking for an opinion on this.

CHAIRMAN ALDEN:

Now, did you ask for a written opinion or an oral opinion?

LEG. CRECCA:

It directs her to report her findings to the Legislature within 90 days. So it doesn't authorize her to commence a lawsuit.

CHAIRMAN ALDEN:

We have a motion to approve.

LEG. VILORIA•FISHER:

Excuse me.

CHAIRMAN ALDEN:

Legislator Viloria•Fisher.

LEG. VILORIA•FISHER:

I have a question of the sponsor. I don't have the corrected copy. Can you please tell me what changes you made, unless they're, you know, very involved.

LEG. LINDSAY:

One of the changes was that there was a concern about the cost to the County in what some viewed could be a frivolous lawsuit, and that's why the reason was for •• to find outside counsel that would work on a contingency basis. That's the substantive change.

LEG. VILORIA•FISHER:

So you added that?

LEG. LINDSAY:

Correct.

LEG. VILORIA • FISHER:

Okay. Thank you.

CHAIRMAN ALDEN:

We have a motion and a second.

LEG. CRECCA:

I'll second it.

CHAIRMAN ALDEN:

Seconded by Legislator Crecca. All those in favor? Opposed? 1627 is **APPROVED. (VOTE:7 •0•0•0).**

And I look forward to them coming back to us with a report. I have some other stuff too, Legislator Lindsay, and it showed where some of the mergers that occurred actually drove the price up or allowed those companies •• so I'll share that with you too.

1629•2004. Adopting Local Law No •• 2004, a Local Law to extend and further strengthen the reporting for the anti•nepotism statute. (CARACCIOLO)

CHAIRMAN ALDEN:

Again, I didn't have any conversation with Legislator Caracciolo.

LEG. O'LEARY:

Motion to table on that, Mr. Chair.

CHAIRMAN ALDEN:

Motion to table by Legislator O'Leary, seconded by myself. All those in favor? Opposed? 1629 is **tabled. (VOTE:7•0•0•0).**

All right. Now we need the Director of Real Estate. Good afternoon.

MS. ZIELENSKI:

Good afternoon.

CHAIRMAN ALDEN:

It's usually good morning, but ••

LEG. CRECCA:

Good afternoon, Ms. Zielenski.

INTRODUCTORY RESOLUTIONS

1648•2004. Sale of County owned real estate pursuant to Local Law 13•1976, Bonvi Realty Inc. (COUNTY EXEC)

MS. ZIELENSKI:

This is a direct sale.

CHAIRMAN ALDEN:

Our appraised value was?

MS. ZIELENSKI:

Our appraised value was \$19,000 and the bid was nineteen•five.

CHAIRMAN ALDEN:

Motion by Legislator Nowick, seconded by Legislator Crecca. All those in favor? Opposed? That's **APPROVED. (VOTE:7•0•0•0)**

1649•2004. Sale of County owned real estate pursuant to Local Law 13•1976, Michael B. Isreal and Jennifer Isreal, as Tenant in Common Each with a 50% share. (COUNTY EXEC)

MS. ZIELENSKI:

The appraised value is 11,000 and the bid was 15,000.

CHAIRMAN ALDEN:

Motion by Legislator Lindsay, seconded by Legislator Vilorio•Fisher. All those in favor? Opposed? That's **APPROVED. (VOTE:7•0•0•0)**

1650•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property

acquired under Section 46 of the Suffolk County Tax Act Judith Giordano, Executrix of the Estate of Francis Ferris.
(COUNTY EXEC)

MS. ZIELENSKI:

As of right redemption.

CHAIRMAN ALDEN:

Motion by Legislator Lindsay, seconded by Legislator O'Leary. All those in favor? Opposed?
That's **APPROVED. (VOTE:7•0•0•0)**

1651•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Constance F. Brown.
(COUNTY EXEC)

MS. ZIELENSKI:

As of right.

CHAIRMAN ALDEN:

Same motion, same second, same vote. That's **APPROVED. (VOTE:7•0•0•0)**

1652•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Authur A. Fernandez.
(COUNTY EXEC)

MS. ZIELENSKI:

As of right.

CHAIRMAN ALDEN:

As of right. Same motion, same second, same vote.

APPROVED. (VOTE:7•0•0•0)

1653•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Eleanor M.Saber.(COUNTY EXEC)

MS. ZIELENSKI:

As of right.

CHAIRMAN ALDEN:

As of right. Same motion, same second, same vote. That's **APPROVED. (VOTE:7•0•0•0)**

1654•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Robert J. Hickey, Jr. (COUNTY EXEC)

MS. ZIELENSKI:

As of right.

CHAIRMAN ALDEN:

Same motion, same second, same vote. That's **APPROVED. (VOTE:7•0•0•0)**

1655•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Charles S. O'Connor III. (COUNTY EXEC)

MS. ZIELENSKI:

As of right.

CHAIRMAN ALDEN:

Same motion, same second, same vote. That's **APPROVED. (VOTE:7•0•0•0)**

1656•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Thomas Robert Schulz and Donna M. Schulz, his wife. (COUNTY EXEC)

MS. ZIELENSKI:

As of right.

CHAIRMAN ALDEN:

As of right. Same motion, same second, same vote. **APPROVED. (VOTE:7•0•0•0)**

1675 • 2004. Adopting Local Law No. • • 2004, a Local Law to extend the County Code of Ethics to all outside business activites. (COUNTY EXEC)

CHAIRMAN ALDEN:

Do we have a motion?

LEG. CRECCA:

I'm sorry.

CHAIRMAN ALDEN:

This is 1675, Introductory Resolution 1675.

LEG. O'LEARY:

Explanation.

LEG. VILORIA • FISHER:

Didn't we vote on this at the General?

LEG. CRECCA:

We voted on •• if I can, I can explain it.

CHAIRMAN ALDEN:

Legislator crecca.

LEG. CRECCA:

I believe that we voted on Legislator Binder's bill, which precluded certain attorneys in policy making decisions. We •• I believe we did it. It failed, it didn't get enough votes for a CN, so it returns to committee by operation of our own rules. It's here •• I understand it's been amended, Counsel.

MS. KNAPP:

1670?

LEG. CRECCA:

I thought it was amended. Legislator Tonna told me it was amend to include him also. I'm not making that up. Ben, 1675, was that amended recently by the County Executive?

CHAIRMAN ALDEN:

To include Legislator Tonna?

LEG. CRECCA:

To include Legislator Tonna?

MR. ZWIRN:

Did we actually mention him by name?

LEG. CRECCA:

No. No. Health care providers, insurance agents •• I don't know.

MR. ZWIRN:

It was amended to include those occupations.

LEG. MYSTAL:

Motion to table.

CHAIRMAN ALDEN:

Motion to table by Legislator Mystal, seconded by Legislator Viloría•Fisher. All those in favor?
Opposed? 1675 is **TABLED. (VOTE:7•0•0•0)**

1680•2004. Authorizing the sales of surplus property sold at the June 15, 2004 auction pursuant to Local Law 13•1976 as per Exhibit A. (Omnibus Resolution. (COUNTY EXEC)

CHAIRMAN ALDEN:

Did anybody have any questions on the properties?

LEG. VILORIA•FISHER:

Yes.

CHAIRMAN ALDEN:

Legislator Viloría•Fisher.

LEG. VILORIA • FISHER:

Yes. I have a question regarding an issue that a constituent had. She bid on a parcel and won and has subsequently had problems. She may have spoken with you during the earlier session this morning.

MS. ZIELENSKI:

Many times.

LEG. VILORIA • FISHER:

Okay. Can you just for the record let me know what the regulations are within that •• what the criteria are for getting out of a deal if it's possible?

MS. ZIELENSKI:

Well, it is a contract.

LEG. VILORIA • FISHER:

Yes.

MS. ZIELENSKI:

That has all of the powers that any contract would have. But one of the reasons we have spoken to your constituent often is because she bids regularly at our auctions. And prior to this auction, she had been in touch with us regularly because she had purchased a property that had a five year restriction in place. It still has, I think, 18 months to run, and she wants to get out of that for other reasons. So we were surprised to see her at the June auction bidding on subsequent properties that had been open for inspection. We know that she has been at at least some of the houses for inspection, because we've talked with her there. So her explanation to us that the property she bid on only had one bedroom and she thought it had two, didn't seem to have much validity.

LEG. VILORIA • FISHER:

Where is it on this list?

MS. ZIELENSKI:

This is Wayne Thompson our auction director.

MR. THOMPSON:

Hi.

LEG. CRECCA:

Hi, Mr. Thompson.

LEG. VILORIA • FISHER:

I found it.

MS. ZIELENSKI:

Parcel number nine.

LEG. VILORIA • FISHER:

Yes. Thank you.

CHAIRMAN ALDEN:

Anybody else? I had a couple of constituents call and ask questions too. And I think my question to you is when we conduct the auction, do we announce the terms right then and there before they bid, or is it in the bid package and we have they rely on what's in the written document rather than just announce the terms at the sale?

MS. ZIELENSKI:

Both. We put it all in the auction booklet and then we go over everything in the booklet before the auction begins.

CHAIRMAN ALDEN:

And we have different types of auctions. But if a property is restricted to only owner occupant, we tell people that, if it's subject to a tenancy that we know that there's a tenant in there, we also disclose that.

MS. ZIELENSKI:

In most cases.

CHAIRMAN ALDEN:

Now, if we know of any defects in the property, do we disclose that?

MS. ZIELENSKI:

Well, it's up to them. The properties are sold as is, and they have an opportunity to inspect them.

CHAIRMAN ALDEN:

Does the New York State Disclosure Law apply to us when we sell a building or a piece of property? I believe it does, but, you know, I'm asking for your opinion.

MR. THOMPSON:

I think we got the opinion that it doesn't affect our sales because it's for a tax sale even though it's not for taxes.

CHAIRMAN ALDEN:

Okay. Because under that law, we're •• as an owner, you are required to disclose any known conditions or, you know, like, negative type of conditions to the purchaser of the property.

MR. THOMPSON:

If we're aware of environmental problems, they're noted in the auction beforehand. But as far as physical deterioration, we leave it up to the inspection and the person in their contract. But we don't make a full list of what would be wrong with the house in that manner.

CHAIRMAN ALDEN:

Do we give the buyer that \$500 adjustment?

MS. ZIELENSKI:

Which \$500 adjustment?

CHAIRMAN ALDEN:

When you waive •• the buyer usually has an option to waive receipt of any notice of defects in the property, and there's usually that disclaimer and disclosure and then there's a \$500 adjustment that would go in the buyer's favor.

MS. ZIELENSKI:

Not anything I'm aware of.

MR. THOMPSON:

The only time we make an adjustment at closing is if something has happened in the meantime between the sale. If there was a fire or some severe damage to the property since the sale, we can make adjustments at that point.

CHAIRMAN ALDEN:

And everybody knows the money that they're bringing to the auction •• you know, it doesn't matter if they don't have a mortgage in place, they are responsible to pay for it even if they •• but we make that disclosure, right, that it doesn't make any difference, if you go out tomorrow and you can't get a mortgage, you're responsible to pay X number of dollars, whatever you bid for the property, right?

MR. THOMPSON:

Or subject to forfeiture.

CHAIRMAN ALDEN:

Right. Which is the ••

MR. THOMPSON:

Five percent in this case. Other cases it can be as much as 20%.

CHAIRMAN ALDEN:

Right. We're making those disclosures, though, right at the auction?

MR. THOMPSON:

We want an educated buyer there. We don't want to have sales not go through.

CHAIRMAN ALDEN:

Okay. Any other questions?

LEG. LINDSAY:

Nope.

LEG. VILORIA • FISHER:

Thank you.

CHAIRMAN ALDEN:

What's the committee's pleasure on this?

LEG. VILORIA•FISHER:

Motion to approve.

CHAIRMAN ALDEN:

Motion to approve by Legislator Viloría•Fisher, seconded by Legislator O'Leary. All those in favor? Opposed? 1680 is **APPROVED. (VOTE:7•0•0•0)**

1686•2004. Adopting Local Law No •• 2004, a Charter Law to ensure due deliberation of legislation. (MONTANO)

CHAIRMAN ALDEN:

The public hearing was closed a little while ago.

LEG. CRECCA:

Motion to approve.

CHAIRMAN ALDEN:

Motion to approve by Legislator Crecca, seconded by Legislator Viloría•Fisher. All those in favor? Opposed? 1686 is **APPROVED. (VOTE:7•0•0•0).**

1687•2004. Adopting Local Law No •• 2004, a Charter Law to clarify delegation of responsibility during absence or disability of County Executive. (CRECCA).

LEG. CRECCA:

Motion to approve.

CHAIRMAN ALDEN:

Motion to approve by Legislator Crecca, seconded by Legislator Alden.

LEG. MYSTAL:

On the motion.

LEG. VILORIA•FISHER:

On the motion.

LEG. CRECCA:

All right, guys.

LEG. VILORIA • FISHER:

Basically, we need an explanation.

LEG. CRECCA:

What led me to draft this bill •• the only signatory responsibility that I'm aware of, beyond what we've excluded, is the signing of resolutions. Since •• as of June 14, 2004 of this year •• that is from January 1st to now, there have been 363 resolutions that have been returned to us signed, okay? There have been ones that have been vetoed or not signed. Of those 363 resolutions, 146 of them have been signed by the actual County Executive, 217 resolutions have been signed by the Chief Deputy County Executive.

In reviewing back, trying to look back further to both the Halpin Administration and the Gaffney Administration, I didn't look back •• I could find very few if any instances where resolutions were actually signed by someone other than the County Executive. My concern is that this statute is somehow possibly being abused. This responsibility of delegating to the Deputy County Executive is not supposed to be used under the Charter when •• just as a convenience to the County Executive. It is supposed to be in his absence from the County •• actually just in the absence. And my concern here is that, you know, I think the voters have elected a County Executive. I think that we want to make sure that he or she is fulfilling his or her duties, and I'm not saying Mr. Levy is not. He certainly is, he is certainly hard working, I will give him that. And I do drive by often since I live close by, and, yes, the light is usually on on the 12th floor.

But my point is that we shouldn't have a situation where the Chief Deputy is signing more bills into law, significantly more bills into the law, than the actual County Executive himself. And I think that if there is an absence or an inability by the County Executive, a brief two sentence explanation, you know, out of the County, on vacation, you know, ill, I think that's acceptable for the signatory responsibility. Am I being silly? Tell me.

LEG. MYSTAL:

Yes.

CHAIRMAN ALDEN:

We'll go Legislator Mystal, then Legislator Vilorio•Fisher.

LEG. MYSTAL:

Normally I would not do that, but this is another anti Paul Sabatino bill. I mean, nobody works harder. I mean, I wish they would get a life, but you know, they work hard. And we just went to 12 years of a golfer for County Executive.

CHAIRMAN ALDEN:

Wait a minute. Is there something wrong with golfing?

LEG. CRECCA:

Elie, don't start.

LEG. MYSTAL:

I'm not going to start. I'm not going to start. But my thing is that this is all an anti Paul Sabatino bill. If you don't like the fact that the County Executive has given Paul a lot of power, then that's a different story. This signing thing, it does not really address the issue that you really want to address. You know, the issue that you want to address is how much power does Paul Sabatino have in the County Executive's Office. That's the issue you want to address. Who signs what doesn't really mean anything. I mean •• you know.

LEG. CRECCA:

It may not mean anything to you, Elie, but I mean, who signs bills into law, I think that's ••

LEG. MYSTAL:

Yeah. But the County can designate people who sign bills into the law, and we've done that in the past. Yeah, this may be more than we have in the past, but it did not create any big problem when we did that in the past.

LEG. CRECCA:

You really think Mr. Levy is absent that much.

LEG. MYSTAL:

No, he's not absent, but he delegates duties to other people.

LEG. CRECCA:

The Charter doesn't allow that. Then amend the Charter to allow him •• that's my point. Please, I'm not •• this isn't about beating up Steve Levy and that really not what it's about. It's about that the Charter says that he can only sign resolutions, Paul Sabatino, the Chief Deputy, in the absence of the County Executive. Let me finish, please. I do not believe that Steve Levy was absent for 140 •• I'm sorry, for 217 of the 363 resolutions that we passed. That's my point.

LEG. VILORIA • FISHER:

Okay. You know what? I understand your point, and I agree with you. I agree with you. I'm sorry, are you done?

LEG. MYSTAL:

I'm done.

LEG. VILORIA • FISHER:

He looked like he was done.

LEG. CRECCA:

I'm not saying ••

CHAIRMAN ALDEN:

Legislator Crecca.

LEG. VILORIA • FISHER:

I have the floor. Let me just say something.

CHAIRMAN ALDEN:

Hold it.

LEG. VILORIA • FISHER:

I have the floor, do I not, Mr. Chair?

LEG. CRECCA:

You had the floor. I just stole it.

CHAIRMAN ALDEN:

Legislator Viloría•Fisher, I'm recognizing you.

LEG. VILORIA • FISHER:

We're trying to keep Crecca under control here today.

LEG. CRECCA:

It's not easy today.

LEG. VILORIA • FISHER:

I know. It's like Apollo the lion, you know, tiger, whatever it was that was running around. Mr. Crecca, we have had a lot of discussion about the need to have better communications across Veterans Highway. Earlier you had spoken to the County Attorney's Office and said that it is incumbent upon them to inform Legislators before the fact if there is a problem. I'm certain that you have had opportunity •• opportunities to speak with the County Executive. I wonder, have you used any of those opportunities to let him know that this was something that you found that was very inappropriate?

LEG. CRECCA:

No, I did not.

LEG. VILORIA • FISHER:

I don't believe that this issue rises to the level of requiring this particular Charter Law change. I believe that ••I know that Steve Levy works very hard. He is known for his almost workaholic tenancies. I am certain that he is reading every one of the resolutions that comes across his desk. And I agree with you that I would prefer to see his signature on them. I believe that if we address this issue that he will rectify it. I'm asking you to table this and give him an opportunity to rectify it.

CHAIRMAN ALDEN:

All set?

LEG. VILORIA•FISHER:

I just don't think •• I just don't think this rises to that level.

LEG. CRECCA:

If I can respond though.

CHAIRMAN ALDEN:

Hold it. Hold it. I almost had to call time out before. You all set?

LEG. VILORIA•FISHER:

I'm ready.

CHAIRMAN ALDEN:

Legislator Crecca.

LEG. CRECCA:

Legislator Viloria•Fisher has a very calming voice, and she does very well to bring me, you know, in control here. Again, I don't disagree with you, I don't think for a minute that, for lack of a better way of putting it, that he was absent for, you know, a hundred •• 217 of the laws that have been signed since January. I think that it's just a matter of convenience. My concern again is not •• is that it probably then rises that it's in violation of the Charter here. And my concern is that without having some sort of written explanation as to when the power is being exercised •• you know, people elected a County Executive, and they didn't elect a County Executive to delegate certain responsibilities. And sometimes we need to do that. I think this is not just good for Steve Levy, for this individual situation, in looking at it, which is what rose me to look at it in all honesty, I think this is a good situation to do whether it's Bob Gaffney and Eric Kopp, Steve Levy and Paul Sabatino, or you know, it be, you know, the next County Executive, whoever that may be and his or her deputy.

LEG. MYSTAL:

Andrew Crecca.

LEG. CRECCA:

I almost said that, but you know •• I think it's best that when a County Executive is going to delegate his very formal responsibilities, that there should be a brief explanation; he's out of the County today, whatever. I think it's good for long term. And I honestly •• that's where I direct this resolution at.

LEG. VILORIA•FISHER:

Mr. Chair. Mr. Chair, just put me on the list, please.

CHAIRMAN ALDEN:

Okay. Legislator Nowick.

LEG. NOWICK:

Now, I really don't think we need so much discussion on this. But a common sense approach to me sitting back here being rather quite is if you are elected County Executive, and your job is to sign our resolutions into law, I would think •• and I know Mr. Levy is a hard working man, but I would think if he had time to read these resolutions, he certainly has time to sign it. I think it would be proper that we would see for our future and for the years to come that we pass resolutions, we made laws, our County Executive should be signing these bills into law. I will like to see his signature, that's his job. Yes, it is a small item, but it does make sense. Why wouldn't he sign it? It's an easy thing.

CHAIRMAN ALDEN:

Legislator Viloría•Fisher.

LEG. VILORIA•FISHER:

Counsel, I have a question. This law refers to section C•9 something.

LEG. CRECCA:

C 3•9.

LEG. VILORIA•FISHER:

C 3•9 of the County Charter. When I read this, my assumption was that this was referring to a situation where the County Executive is incapacitated or the County Executive is unable to fulfill his duties. I feel that using a reference to that to require •• to make these requirements of the County Executive, I feel is disingenuous and inappropriate. I don't think that when Paul

Sabatino signs a resolution, that it's because Steve Levy is incapacitated or unable to perform his duties. And so I don't think then that we should be using that reference if we are trying to rectify something that is •• that we are finding is an inappropriate practice at this time. Steve Levy isn't incapacitated as that •• my question was to Counsel. It seems to be extrapolating an awful lot out of that Charter Law.

MS. KNAPP:

Again, maybe I should do a more thorough search of the Charter, and again, you have to •• this sort of comes up in context. Actually, the Legislative Clerk is the one who started asking about the number of resolutions, Local Laws and Charter Laws that were being signed by the Chief Deputy, because in the past •• my response was always that in the absence of the County Executive, an absence is usually defined as absence from the County, that the designated deputy can act in all for respects for the County Executive. That's how it came up in context. And the particular context honestly that it came up in was when the Legislative Clerk called me about a bond resolution that the Chief Deputy had signed and had not written Chief Deputy before his name. He simply signed his name, left it as County Executive, and it was a bond resolution. And that was really how the subject came up. So you know, the question became • and I had to call Bond Counsel, and Bond Counsel asked me was he absent from the County, I said I did not think so.

LEG. VILORIA • FISHER:

Did you contact Paul Sabatino at that point, since it had risen to the level of having to have a discussion with Bond Counsel?

MS. KNAPP:

Well, it was already signed.

LEG. VILORIA • FISHER:

Okay. But I'm going back to the issue here. And it's been a very excruciating year, because there has been •• it seems to me on both sides of Veterans Highway, there seems to be an unwillingness to have, Mr. Crecca, human being to human being communication, okay? We have asked the County Attorney's Office to communicate with us. Well, it works both ways.

This rose to a really high level of seriousness when Bond Counsel said is this indeed the County Executive. I believe it was incumbent upon you as our Counsel to call the County Executive's

Office. I think it was incumbent upon the Clerk. It was incumbent on somebody on this side of Veterans Highway to call someone on that side or communicate in a memo, in some way that this was a problem. I would bet my last dollar that if there was a cry of inappropriate behavior from this side of the aisle, from this side of Veterans Highway, it would be rectified on the administrative side. I have absolutely no doubt in my mind. And I feel that this is an ugly attack, this piece of legislation. It's inappropriate, it's embarrassing, it is ugly and it is beneath us as a body.

CHAIRMAN ALDEN:

Legislator O'Leary.

LEG. O'LEARY:

I would think under the circumstances that the County Executive with rare exception would want to sign all the legislation into law himself. Be that as it may, the situation has arose here where it's been reported that there's countless times since January 1st where he did not so do. I think the language is clear in the Charter that the County Executive has an obligation to sign those laws, to execute them himself unless he is indisposed to do so.

Now, I don't know what the affect of Legislator Crecca's proposed resolution will do with respect to clarifying the delegation of responsibility, but if it allows the Chief Deputy County Executive to sign into legislation without the permission of the County Executive, I think we're going into dangerous waters here. I mean, in my opinion, it should be a rare exception that the County Executive does not sign a bill. And I think what should happen here is •• it's not too often that I agree with my colleague, Legislator Fisher, but I think that there's a situation that has evolved here where I think some communication should occur between this body and across the street saying that if we •• if they do not change their ways with respect to addressing what we perceive to be a very serious issue, frankly, I mean, he's opening himself up to criticism for not signing these •• you know, for not placing his signature on these laws. But I would think that it should be given clear notice to the 12th floor that this is a concern of not just one Legislator, but Legislators. And if it's not addressed •• if it's not addressed appropriately or acceptably by the County Executive and his staff, then I think we should move forward with this for purpose of clarification.

LEG. CRECCA:

Is there a request from Legislators to table this?

CHAIRMAN ALDEN:

Legislator Crecca.

LEG. CRECCA:

I'd be happy to table this one cycle, discuss it with the County Executive. But I want you to understand that it's not a stick•it•to•Steve type thing. I so think the Charter is very clear on when the authority can be exercised.

LEG. O'LEARY:

I will second that motion to table.

CHAIRMAN ALDEN:

Okay. So we have withdrawn the motion to approve and a second. We now have a motion to table, seconded by Legislator O'Leary.

LEG. VILORIA•FISHER:

Thank you, Legislator Crecca.

CHAIRMAN ALDEN:

All in favor? Opposed? 1687 is **TABLED. (VOTE:7•0•0•0).**

Now, 1745 was handed out. These were laid on the table and have been assigned to committee.

1745•2004. Authorizing technical correction to Adopted Resolutions 553•2004 and 594•2004. (PRESIDING OFFICER)

LEG. CRECCA:

Mr. Chairman, point of order. I think the seven day rule is complied with which is actually the eight day rule, but just to be on the safe side on these •• I know, for example, 1745, they want to be able to get the money to Saint Margaret's. So what I would ask is that we waive the rule, because none of these are Charter Laws, so it doesn't violate any •• so I make a motion to waive the rules and approve just in case.

CHAIRMAN ALDEN:

Motion is to waive the seven day rule, right? So a motion to waive the seven day rule and approve 1745. There's a motion by Legislator O'Leary, seconded by Legislator Crecca. All in favor? Opposed?

LEG. MYSTAL:

Hold up.

LEG. CRECCA:

It's technical correction on a ••

CHAIRMAN ALDEN:

You all set? Okay. All in favor? Opposed? That's **APPROVED. (VOTE:7•0•0•0).**

CHAIRMAN ALDEN:

1749. Does anyone have a copy of 1750?

LEG. CRECCA:

I have 1750 and I have 1748. Does everyone have that?

LEG. VILORIA•FISHER:

I have 49, not 48.

CHAIRMAN ALDEN:

I don't have 1748. All right. If everyone has 1748, let's go to that.

1748•2004. To provide fiscal responsibility to the management of the Employee Medical Health Plan. (CRECCA)

LEG. CRECCA:

I'll make a motion to waive the rule and approve.

LEG. NOWICK:

Second.

CHAIRMAN ALDEN:

Second by Legislator Nowick. Legislator Viloria•Fisher.

LEG. VILORIA•FISHER:

I have a question. Andrew, last year •• Legislator Crecca, last year we •• I know you did a great deal of work on this. Hadn't we at that time established a method to have fiscal accountability?

LEG. CRECCA:

That was with •• the only thing we approved last year, which wasn't this was EBs •• the EBs, TBs and RBs if you remember.

LEG. VILORIA•FISHER:

Yes. Right.

LEG. CRECCA:

That didn't deal directly with the EMHP, that dealt with •• it came up because there was a \$6 million transfer into EMHP that was ••

LEG. VILORIA•FISHER:

But I remember that we had legislation subsequent to that that required that Budget Review be a •• not a voting member, but a sitting member so that we can provide that fiscal oversight.

LEG. CRECCA:

What happened was that there was •• we had discussed the possibility of Budget Review attending those meetings. It was never formalized as far as I know into resolution. Let me just •• it's worth it for me to take a minute to explain this bill.

LEG. VILORIA•FISHER:

Yes, please.

LEG. CRECCA:

Right now, currently under the current Charter, I guess it is, right •• I always get the Code and Charter mixed up, but under the Code, the EMHP Board predates the '92 memorandum of agreement and says that Budget Review sits on it, the Chairman of Health, the Chairman of

Budget, all these different people. We haven't complied with that or actually practiced that as far as I know since at least 1992, okay? Since that time since the memorandum of agreement, it was nine representative from the County Executive's Office and the non unions. But we as a Legislature •• what's the word I'm looking for •• allowed it to happen. You know, we didn't do anything about it.

What this bill does is two things. The first thing it does is it takes that memorandum of agreement and changes the Code to reflect what we've been doing for the last 14 years, first of all, which it says is basically, the EMHP Management Committee will be comprised of 18 members; it's the non unions that are there now, nine County Executive appointees. What this bill •• it just sort of does what we've been doing anyway and literally pulls the language, Counsel, unless I'm wrong, right out of the memorandum of agreement.

It does one other thing that I've added to that. And that is •• it's a joint •• joint certification. If an action that's been recommended by this Joint Management Committee is adopted by the County Executive, and it's going to cost •• it has a fiscal impact of more than \$50,000, what's going to have to happen is it will have to come back to us for approval. And I think that the logic behind this is really relatively simple. What we're trying to say is, hey, if there's something that's going to really affect tax dollars a lot, you have to come back to the body and get approval for it. Short of that, everything sort of goes as is now.

And this finally does what we should have done in the past, which is if we're going to keep things the way they are with the non unions and the nine County Executive people, then we should put it •• we should change the Code to comply with what we're actually doing, because we've been in violation of the Code for 14 years. So that's what it does. And the idea is I don't think •• from a policy point of view, I think that if they're going to be making that kind of changes in our health care plan, that, yes, it should come back for to us approval.

LEG. O'LEARY:

Also, Legislator Crecca, this proposal also exempts appeals, medical appeals, which is very important, because that occurs quite often as I'm very familiar with in the past. But this excludes medical appeals from coming before this body for purpose of approval, does it not?

LEG. CRECCA:

Yes, it does. If I can just confirm that with Counsel, but that was the intention of the bill too. Yes it does. It says, notwithstanding the above decisions on medical payment, appeals shall be made solely by the Joint Management Committee and need not be submitted for County Executive approval or be subject to certification requests.

LEG. O'LEARY:

So the effect of this resolution would be any changes in the administration of the plan that has a fiscal impact of \$50,000 or more has to come before this body for approval?

LEG. CRECCA:

Correct. If Budget Review and the Budget Office certify that it's below 50, we don't ever have to see it. And that's because we don't want to be dealing with any type •• you know, if they change an amount on a particular drug and things like that, we don't really want to be dealing with every minor issue. But if it's a major eligibility issue or a major coverage issue that's going to have a fiscal impact, I think we should •• I think it should have Legislative approval. It's tax dollars.

CHAIRMAN ALDEN:

Legislator Vilorio•Fisher, did you have any other questions?

LEG. VILORIA•FISHER:

Prior to this, what were the threshold levels for approval and by whom?

LEG. CRECCA:

None.

LEG. VILORIA•FISHER:

Okay. So there was no threshold level, there was no amount at which they required approval?

LEG. CRECCA:

Correct.

LEG. VILORIA•FISHER:

By the County Executive or by the Legislature?

LEG. CRECCA:

That's my understanding, yes. Well, let me •• I will clarify that, because I see Counsel making a face.

CHAIRMAN ALDEN:

That's an advisory board.

LEG. CRECCA:

They're supposed to •• just so you understand, the 18 member board is •• he is right. They're supposed to be making recommendations to the County Executive. It is still the County Executive that actually makes the decision. So I'll give you a perfect example. The nine •• the 18 members vote unanimously to cover veterinarian expenses for family dogs. I mean, I'm being silly on purpose. The decision on whether to cover those dogs •• cover that or not •• I know, I shouldn't even give them any ideas, right? Well, the County Executive could override the 18 member board ••

LEG. MYSTAL:

Sounds good to me.

LEG. CRECCA:

•• and not •• and not implement that part of the plan, assuming, of course, under \$50,000, you know, he could do that or not do it. So they really are an advisory board. In practice, their recommendations have been followed, at least by the prior administration.

LEG. VILORIA • FISHER:

Can I just follow up, because I don't want to lose this train of thought? Recently, the EMHP had voted to provide benefits to domestic partners. I'm assuming that that will cost more than \$50,000. My concern is that this Legislature might withhold approval of that.

LEG. CRECCA:

Just so you understand, and Counsel, I need you to chime in on this, this bill is not retroactive, it's prospective.

LEG. VILORIA • FISHER:

So has that provision already been set? Because I don't want to see people who are domestic partners lose that benefit, number one. Number two, I don't see that issue embroiled in the kind of legislative and political squabbling that comes out of anything having to do with people who are gay.

LEG. CRECCA:

I will just tell you this to answer your question. Whether to do it prospectively or retrospectively was considered by me in drafting the resolution. And I did not •• this is a policy bill. I did not want to get that policy tied into this bill.

LEG. VILORIA • FISHER:

I just want to make sure that that policy is already in place. That's it's signed, sealed and delivered, and that it's not still out there. Counsel, can you tell me what the status of that policy is?

MS. KNAPP:

I can tell you that this bill is clearly not retroactive.

LEG. VILORIA • FISHER:

Yeah, but if that policy is still out there and alive, I don't want it to come to us.

MS. KNAPP:

I don't know the full facts of the situation so that I can tell you, you know, where they are in the process. I have to assume that it's done, but I don't know that. That's an assumption.

LEG. CRECCA:

My understanding from talking to Mr. Levy •• just so you know, Ben correct me if I'm wrong, I spoke to him I think Friday or Thursday •• was that it was done and they were going to be doing this as of September 1st. We had our own discussion about •• from a policy point of view, which is not important right now, but whether I agreed with it and whether he agreed with it, but it was my understanding that that was going to be implemented effective September 1st for an 18 month period.

MR. ZWIRN:

I honestly don't know the answer to that question.

LEG. MYSTAL:

Mr. Chair, I've been waiting patiently.

LEG. VILORIA•FISHER:

Would you be willing to table it so we can know?

LEG. CRECCA:

No.

LEG. MYSTAL:

Everybody's chiming in.

CHAIRMAN ALDEN:

Hold it. Right now Legislators Viloria•Fisher and Mystal have the floor, then on my list I have Legislators Crecca and Lindsay right after that.

LEG. CRECCA:

Legislators Fisher, to answer your question. The answer is ••

LEG. VILORIA•FISHER:

I don't think the stenographer heard my question. My question was would you be willing to table it until the next meeting so that I can know that the domestic partnership is not going to be imperiled?

LEG. CRECCA:

No. But what I will do is this. I will be happy •• it is not my intention to use this bill as a vehicle to stop that. I believe if we want to stop that, we should do a separate resolution policy wise and let the votes go where they go. So I don't intend to use this •• it's not my intention to use this bill. So what I would ask you is if we do either discharge this or approve it out of committee today, that certainly between now and a week from now we should be able to get that answer as to whether or not that's been implemented or not. Certainly •• and I think Counsel can say •• and I'm on the record saying the legislative intent is not to have this go retrospective to any recommendations that have been made by the board and accepted by the County Executive, which it's my understanding in my conversations directly with the County

Executive •• it was Thursday or Friday, I don't remember which day •• he specifically said that that was discussed between the two sides, it was negotiated, it was recommended and voted unanimously, and he approved it and will be implementing it. So that's my understanding. So with that, you have my •• you know, as much as I can put on the record on it. I do think it's an important policy though for the future. That's why I didn't embroil it in the same issue.

CHAIRMAN ALDEN:

Legislator Vilorio•Fisher, are you done?

LEG. VILORIA•FISHER:

I'm done.

CHAIRMAN ALDEN:

Before I go to Legislator Mystal, you need a break or anything? Are you okay.

MS. CATALANO:

No thank you. I'm okay.

CHAIRMAN ALDEN:

Okay. Legislator Mystal.

LEG. MYSTAL:

My thing to Legislator Crecca is that you have been one of the most vociferous persons around this horseshoe every time a bill comes that does not go to through the committee process and be vetted out. This seems like a very complex bill. It seems to have a lot of issues on it. It's being laid on the table today. I don't see why it doesn't go through the committee process where we can call and talk to people about the bill. I don't see the urgency for us to approve this right now for it to be on the calender for next Tuesday. You just laid the bill on the table, why can't you let it go through the committee process where Legislators can call people and ask people questions where we have enough time? I don't see the rush to have this approved next Tuesday.

CHAIRMAN ALDEN:

Legislator Crecca, do you want to respond to that?

LEG. CRECCA:

Yes. Twofold, number one, with all due respect, Elie, it's •• Legislator Mystal, it's not complicated. It's literally three sentences.

LEG. MYSTAL:

It is to me. I'm a four year old. See, I'm kind of dumb. It takes time.

LEG. CRECCA:

You're not as dumb as you look, Elie, okay?

LEG. MYSTAL:

It takes time. It takes time for me to get to things.

LEG. CRECCA:

It's actually a really simple concept, number one. Number two, is ••

LEG. MYSTAL:

This is going against your own policy of things being vetted out in the committee, which you always went and vented about.

LEG. CRECCA:

Well, that's what we're debating right now.

LEG. MYSTAL:

We can't call anybody. Andrew, we cannot call anybody from anywhere to say come over here and talk to us. If it goes through the committee process, then we have the time to read the bill and call people to give us an explanation as to what not •• Legislator Fisher has questions. So I don't see why you don't want to •• why don't you want to go through the committee process? Is there some reason, some specific reason, in terms of having it voted on next Tuesday that we don't know about that you are, you know ••

LEG. CRECCA:

No, Elie. And I give you my word that there is no secret agenda here or anything else like that. To be quite frank with you, from a policy point of view, I think that the unions and the County Executive approved a policy that has major fiscal impact on us. I'm not looking to

overturn that with this bill. What I'm looking to do is prevent such an action from happening again. I found out from Newsday, from a Newsday reporter, that the •• this eligibility on our health plan was being extended.

Last year it happened under the prior administration, so, you know •• where they extended it to the deceased spouses •• I'm sorry, the spouses of deceased retired members. I think I'm saying it correctly. Again, expanding eligibility and costing taxpayers what I believe will be hundreds of thousands of dollars without any Legislative approval. So it's not •• again, this was something the Gaffney Administration did, this is something now that's happened again. Quite frankly, I don't want them to go •• EMHP to go another meeting and approve something that's going to cost taxpayers hundreds of thousands of dollars more or less without having •

LEG. MYSTAL:

Andrew, we're talking August 10th to August 24th.

LEG. CRECCA:

Then discharge it without recommendation.

LEG. MYSTAL:

That's all we're talking about. That's what we're talking about. August 10th, which is next week to August 24th, which is the next meeting when this bill will be voted on if it goes to the committee. I just do not understand the ••

LEG. CRECCA:

I don't think ••

LEG. MYSTAL:

•• rush.

LEG. CRECCA:

I don't think unions should be making decisions that have fiscal impact on our taxpayers. When is the next EMHP meeting, does anybody know?

LEG. MYSTAL:

September, hah•hah. Just shot down your argument. Just shot down your argument.

LEG. CRECCA:

I'd like to move the bill. I'd like to move the bill, but I understand your points, guys.

CHAIRMAN ALDEN:

Anything else, Legislator Mystal? Now we go to Legislator Lindsay.

LEG. LINDSAY:

Whether we vote on the bill at the next meeting or the following meeting, I think the concept is a good concept. And I'll tell you why. I know that Legislator Vilorina•Fisher is concerned about the domestic partner benefits. There's no doubt that that benefit is going to cost us probably much in excess in what was reported, and it's a hard number. It should come back before this Legislature just like all the collective bargain agreements come back before the Legislature. And when you're dealing with that amount of money, it should be a subject of negotiations at the bargaining table, it shouldn't be done administratively at a benefit board. And I think we owe that to every one of our constituents that pay taxes in this County.

CHAIRMAN ALDEN:

Jim, can you respond?

MR. SPERO:

Just to let the Legislators know, we prepared a memo trying to estimate the cost of the benefit that was extended to domestic partners using a percentage of six•tenths of 1% of our enrollees, which is the same percentage as domestic partners enrolled in the Empire Plan and using the averages for the number of persons covered per enrollee and the average cost per person covered for our health plan, we came to a cost of about •• over \$1.1 million for the extension of this benefit annually at the current rates. Now, we're not going to know how many enrollees actually will be involved in the health program until after September 1st. Since we're self insured, the actual cost won't be known for about a year from now as the actual costs for the enrollees health care or the covered person's health care come in.

CHAIRMAN ALDEN:

Legislator Nowick and then Legislator Mystal.

LEG. NOWICK:

You know, I absolutely agree that everything should go through committee, but I have to tell you this time I feel as a Legislative body our authority was usurped, I read about it in the paper over coffee one morning, I had no idea that was going to happen. I believe we voted on that issue twice since I've been here in the Legislature. It was •• can you imagine the shock when I received calls and when I spoke to constituents who said to me, I thought you were the Legislature, I thought we elected you to make the decisions, who is this making the decision? In this particular case, I must agree with my colleague, Andrew, and say, I guess this has to be done right away.

CHAIRMAN ALDEN:

Legislator Mystal.

LEG. MYSTAL:

I just want to reiterate, I don't have any problems with the bill, I think it's a good bill, I intend to probably vote for it. My question was one of consistency, especially on the part of Legislator Crecca, who always is the lead person to punch holes in any bill that comes in that doesn't go to the committee. That's what my whole argument was all about.

CHAIRMAN ALDEN:

This might be an oversimplification, but this is the committee process. We're in committee right now. If we have experts that we want to bring in, I'll try to accommodate. If we need testimony on this, I will try to accommodate any member. But this is the committee, and we're doing the committee process.

LEG. MYSTAL:

It is six o'clock.

CHAIRMAN ALDEN:

Who do you need? I'll try to get them.

LEG. VILORIA • FISHER:

No, it's really not the committee process. The committee process gives the public time to know that it's before us so that they could come during the public portion and speak to the committee and speak to the issue.

CHAIRMAN ALDEN:

I'm glad you said that, Legislator Vilorio•Fisher, because you know what? I'm a Legislator. And the last time I looked in the Charter, it says that I set policy for this County. And you know what happened? The County Executive usurped my power and set a policy.

LEG. VILORIO•FISHER:

No. Actually, he didn't usurp your power.

CHAIRMAN ALDEN:

He absolutely did.

LEG. VILORIO•FISHER:

This is a power that has been held by this •• the EMHP Board for a long time.

CHAIRMAN ALDEN:

He does not have the power to usurp from me and go and put this upon me. This is something that was pointed out too a few minutes ago, that we voted on this. And this should be this Legislative body's prerogative to either vote on it, not vote on it, modify it in one way or another. But that is policy of this County not to be forced down the County taxpayers throat. And now we understand, it's not \$190,000, there's a possibility it could be millions of dollars. So that's a pretty big bite for the County taxpayer to take without the Legislative body whose job it is to set policy to even weigh in on the subject.

LEG. VILORIO•FISHER:

But the County Executive did not usurp that. He did not take it. It was •• in the memo, as Legislator Crecca has pointed out, in the memorandum of agreement that has been in place long before he became the County Executive.

CHAIRMAN ALDEN:

You and I set County policy, not the County Executive.

LEG. VILORIO•FISHER:

He did not usurp that power. That power was his to take.

CHAIRMAN ALDEN:

What you're telling me is he can put it to the taxpayer, just do whatever he wants to do in that instance, \$100 million worth of cost?

LEG. VILORIA • FISHER:

It was the committee who decided on that.

CHAIRMAN ALDEN:

They're advisory only. The County Executive has to act on his advisory Committee.

LEG. VILORIA • FISHER:

And he acted upon that advice.

CHAIRMAN ALDEN:

You are entitled to your opinion. I'm entitled to mine. My power was ••

LEG. VILORIA • FISHER:

Usurp means to take that which is not your's.

CHAIRMAN ALDEN:

And he did.

LEG. VILORIA • FISHER:

He did not usurp it. It was here written ••

CHAIRMAN ALDEN:

He does not have the power to set policy that way.

LEG. VILORIA • FISHER:

But it was his ••

LEG. MYSTAL:

Children. Children, come on.

LEG. VILORIA • FISHER:

It was his right to sign that. He did not usurp anyone's power.

CHAIRMAN ALDEN:

Anyone else want to weigh in on this? Legislator O'Leary.

LEG. O'LEARY:

The information I received ••

LEG. VILORIA • FISHER:

By the way, I resent that there was a hidden agenda behind this, the domestic partnership.

CHAIRMAN ALDEN:

That's your opinion.

LEG. CRECCA:

What are you talking about?

LEG. VILORIA • FISHER:

You just said it was.

CHAIRMAN ALDEN:

Excuse me. Excuse me. I recognize Legislator O'Leary. Thank you.

LEG. O'LEARY:

Thank you, Mr. Chair. My understanding of this particular negotiation between the bargaining units and the members of the Management Committee, the Labor Management Committee, is that it's effective and has not been executed until September 1st. This is not something that is in place and effective as of today. There's every indication that it will be effective September 1st. It does require unanimity on the part of all 18 members on the Labor Management Committee, and I believe there was unanimity with respect to this proposal.

One of the issues that has come up though which needs to be addressed is that we don't disagree that •• now, I'm putting on my previous life's hat. When we bargain for the members that we represent as bargaining unit negotiators, we know that we can bargain for the members that we represent. We do not represent a class of employees within the County called exempt employees. There is currently a resolution in effect that all benefits derived from EMHP will be afforded to be the exempt employees as well. However, what was •• what occurred this time in negotiations is the unions and the County Executive's representatives did not address a level of

benefits or cost as is prescribed in the memorandum of agreement. They addressed eligibility. And in effect, they changed the rules of eligibility for purposes of extending benefits to individuals who are not previously covered.

Now, that in and of itself, I think, would require a little more scrutinization on the part of this body with respect to that procedure. But be that as it may, clearly this is something that's going forward. I think what Legislator Crecca speaks of is prospectively. And I think that this has a lot of merit. Having been in that position for years, I know that we were •• which is still up in the air, the union still have an extended agreement that dates to 2010. That hasn't been addressed by the Executive or his people. And currently, the unions are working under what's called a triborough arrangement; all benefits are in full place, the extended benefit as a result of the expired agreement.

But if this is clearly a prospective proposal on your part, I think it has a lot of merit. It's something that even the unions recognized that this body should be the ratification body for purposes of approving any future agreements and extensions. So I would be totally supportive of this particular proposal. I think it's excellent in its merit. However, if it's not retroactive, then that's a separate issue that we're talking about. I have every reason to believe that the agreement made between the unions and the County Executive is binding and will be, you know, upheld in the courts if it goes that route.

But the one concern I do have is that if the bargaining units do not have the authority to negotiate for exempt employees, and there is some question of whether or not, because they changed the eligibility rules, that this particular issue that Legislator Fisher brought up with respect to domestic partners would apply to exempt employees.

CHAIRMAN ALDEN:

Legislator Lindsay.

LEG. LINDSAY:

Well, the only thing that I was going to say in regards to Legislator O'Leary's comments is EMHP is not supposed to be a bargaining agent, it's not supposed to be for bargaining. That's for the negotiating table. We have seen that it has evolved into a bargaining agent that frankly costs us a lot of money. And it should have been corrected last year when the benefits were extended to widows of retired members, and we didn't. And I just think it needs to be

corrected. And again, if this was done or that was done within the context of a collective bargaining agreement, when you're in the midst of a give and take process, that's where this belongs. It doesn't belong at an administrative advisory board.

LEG. O'LEARY:

If I may, Mr. Chair.

CHAIRMAN ALDEN:

Legislator O'Leary.

LEG. O'LEARY:

Just to clarify for Legislator Lindsay, it is part of the negotiating process by agreement and resolution called a memorandum of agreement. All nine unions within the County have entered into an agreement that with respect to health benefits as it pertains to health benefits and the cost of health benefits, that that is a part of the collective bargaining process. All nine unions sit at the table with the representatives from the County Executive for purpose of coming to an agreement with respect to those benefits.

CHAIRMAN ALDEN:

Legislator Lindsay.

LEG. LINDSAY:

If it is in negotiations, then we should have the right to approve it.

LEG. O'LEARY:

And I don't disagree with that. That's why •• that's why it was an issue a couple of years ago that there a was movement to bring any future agreements by the Labor Management Committee before this body for edification. And there's currently an agreement that it's in limbo that has been negotiated by the unions and the prior County Executive that is just sitting there. And as a result of that, they are working under the triborough process. But everyone is in agreement that all future agreements shall come before this body for ratification because of the fiscal impact.

CHAIRMAN ALDEN:

I have Legislator Crecca the Legislator Vilorio•Fisher then Legislator Nowick.

LEG. CRECCA:

I just want to clarify something, because the discussion got a little heated before between the Chairman and Legislator Fisher. Just so you understand, my intention on the bill is always to be prospective. And yes, the recent revelation about this approval of eligibility for a new class of people is sort of like in my mind was the straw that broke the camel's back. I should have done something like this a year ago when we were looking at the EMHP management and, you know, when they extended it to retirees. And I'm not saying I wouldn't have approved it had it come before us. But when there's this type of fiscal impact, we have a responsibility as Legislators.

So I do not •• I was not looking to nor am I looking to •• again, I'll say it on the record and I'll say it at the General Meeting •• to use this bill to negate what had happened. If it is •• at some point if it is my intention to do that, I will be explicit about it and put it in an explicit resolution, which is not my intention at this point. Also understand that this resolution would not become effective until it was signed into law or until 30 days, I guess, after approval appears.

MS. KNAPP:

The bill would be effective as soon as it was signed into law.

LEG. CRECCA:

Right. I'm saying as soon as it's signed into law. The County Executive ••

LEG. VILORIA•FISHER:

He has 30 days to sign it is what he's saying.

LEG. CRECCA:

So he will have until September 10th to sign it beyond that period anyway or Paul Sabatino, whoever is going to sign it. That was a joke. But anyway, so that's not the intention here.

LEG. VILORIA•FISHER:

No. I had taken umbrage with the word ••

CHAIRMAN ALDEN:

Legislator Vilorina•Fisher.

LEG. VILORIA • FISHER:

I had taken umbrage at the use of the word usurping, because Mr. Gaffney did not usurp the Legislature either when he signed the widow's benefits a year ago.

LEG. CRECCA:

I think he did. I think he did.

LEG. VILORIA • FISHER:

Okay. But that term was not used at that time.

LEG. CRECCA:

No. I will take as much heat as you want. We sat here idly from 1992 until present and let •• I don't think •• this memorandum of agreement has no legitimacy, it's not codified in our Code, and we have passively sat here and let that go forward. What this tries to do is say, hey, you know what, if we're going to leave things that way they are, let's codify it and let the books match the practice.

LEG. VILORIA • FISHER:

Actually when it hit the fan a couple of years ago because of the scandals that were written in the paper regarding how much more we spent than we should have spent, there was that great battle between Mr. Guldi and Mr. Tempera. Were you here at that meeting? And correct me if I'm wrong, but it seemed to me that the unions were very much opposed to having Legislative oversight of the EMHP Program. I know that was the message that I was getting at that time. You were Chair of the committee at that time, Mr. Crecca, and wasn't that the impression that? And we never seemed to move forward with pressing Legislative oversight because there was such an adamant opposition to it on the part of the members of that group.

LEG. CRECCA:

Honestly, what happened was I started the EMHP hearings, then there was a change in the P.O.ship, and Legislator Guldi ended up with jurisdiction over those hearings. And I lost control •• and I don't mean it in a bad way, but I lost the control of the agenda on those meetings. There was a great friction between the unions and Legislator Guldi as Chairman in the way those hearings have proceeded. Actually, Legislator Guldi introduced legislation which would have completely revamped EMHP and basically turn it upside down.

LEG. VILORIA • FISHER:

And added legislative oversight right into it.

LEG. CRECCA:

Actually, yeah, took the unions off and put •• put •• went closer back to the original code and things like that. I looked at that resolution and considered doing that, and I did not think that was a good way to go. And I want to explain briefly why, very briefly, because I don't think •• I do believe the administration of our health plan is an executive decision, and I believe that it's Mr. Levy or Mr. Gaffney who or any subsequent County Executive who as the Executive Branch of Government should administer the plan, carry it out. And I think that the only time we need to get involved is when there are any major policy changes or major changes in the expenses on the plan, then we need to consider it because of our responsibility to the taxpayers. So in a way here, I'm actually codifying and trying to give the County Executive a little more power over the plan, but at the same time giving us •• you can call it oversight or power of the dollar, so to speak, the appropriation power, which we already possess to make sure that the plan is not being altered where it has a major impact on taxpayers. Originally we started out with 10,000, thought that was too low, so I raised it to 50.

LEG. O'LEARY:

Mr. Chair.

CHAIRMAN ALDEN:

I have Legislator Nowick then Legislator O'Leary.

LEG. NOWICK:

Jim, just quickly, could you tell me again what you think that this would cost per year?

MR. SPERO:

The number we came up with was more than \$1.1 million based on the averages we see in our current health plan and six•tenths of 1% enrollment factor.

LEG. NOWICK:

I just was wondering. I thought we had voted once or who was to get health insurance benefits, and we voted •• this particular issue, we voted against it. My question is why did we • why did that ever come to the Legislature if another entity had the right to decide differently?

CHAIRMAN ALDEN:

Who are you directing that question to.

LEG. NOWICK:

I just would just like an answer, and I think that Counsel might know. I'm just curious. I had no idea that a bargaining unit and a Suffolk County Executive staff or designees or appointees could make a decision. So if they could already do that, why did it ever come before us? Why did a similar ••

MS. KNAPP:

Are you talking about this year, in the last seven months?

LEG. NOWICK:

In the last two years. Didn't we have an issue like this for health insurance benefits for ••

CHAIRMAN ALDEN:

No. The first issue was the domestic registry.

LEG. NOWICK:

And that went down, but didn't we ever have ••

MS. KNAPP:

I believe that this Legislature has considered ••

LEG. NOWICK:

We did consider it, and it failed, I believe.

MS. KNAPP:

Considered health insurance benefits for domestic partners, in the past, yes. Legislator Postal introduced it, I believe.

LEG. NOWICK:

My question is if we considered it, but if this could have been passed like it was two weeks ago, why did we bother considering it? That's what I don't understand.

CHAIRMAN ALDEN:

God would have to answer that question.

LEG. NOWICK:

Do you know the answer, Cameron?

CHAIRMAN ALDEN:

God would have to answer that, because God only knows.

MS. KNAPP:

Are you asking me whether or not •• certainly the Legislature has the power to enact these in the absence of the County Executive.

LEG. NOWICK:

But they supercede our power? The County Executive designees and the bargaining units superceded the power of the Legislature? I'm just trying to figure out, because I've been questioned by my own constituents about how that works. When they come to me and say, so who's responsible for raising our taxes you the Legislators or somebody else. So I would like to know who to place the blame on.

CHAIRMAN ALDEN:

In this instance, you just have to take from the testimony what happened. The advisory board suggested to Mr. Levy to implement this which could cost somewhere between \$190,000 and upwards of a couple of million. And Mr. Levy seems to be in the process of implementing it. So you just have to take the information and relate whatever information is out there. Not place blame or anything like that, just you know, I would relay the information as it exists.

CHAIRMAN ALDEN:

Legislator O'Leary, then Legislator Mystal.

LEG. O'LEARY:

I just want to emphasize the point that there is currently an agreement between the unions and the Executive Branch concerning an extended agreement for EMHP that goes through the Year 2010. That agreement by agreement is going to come before this body for the purposes of ratification, which had not previously been done in maybe four or five extended agreements

that I'm aware of. And the reason why that came about is because there's clearly disagreement between the unions and the Executive Branch on whether or not this body should get involved in the negotiation process as it pertains to health insurance and health benefits.

Clearly, the agreement and understanding was that they would not. And the Executive at the time through his Director of Labor Relations made it very clear that any extended benefits afforded to County employees and their dependants would not have to come before this body for purposes of ratification. That was grieved by the unions, and the unions lost that. The County won that, the Executive Branch won that particular grievance. It stays within that particular body.

Subsequent to that, there was negotiations that went on this extended agreement, and by agreement it was agreed upon that any future extended agreements would come before this body for purpose of ratification. The question that should be posed and the question that should be addressed by both the unions and the County Executive and his staff, particularly his Director of Labor Relations, what is the status of the extended agreement that has been lying in limbo now for the past seven or eight months?

CHAIRMAN ALDEN:

Just in response. I had asked a couple of people to come down to the committee, and they were not able. They •• one of them was out of town on vacation, and the other than one was up in Albany doing lobbying. So the Chairperson and the Vice•Chair of that committee, I invited them down, and they said there were unavailable. So hopefully at either the next meeting or ••

LEG. O'LEARY:

But I just wanted to point out that had that agreement been ratified by this body prior to this issue that has come up with respect to domestic partner coverage, clearly that would have had to come before this body for ratification, because there was in fact a fiscal impact. But that's not the way it is. They're working under the old rules, prior to January 1 of 2003, I think it is. It goes back that•• no •• yeah, in 2003, January of 2003. So I think what we should do is •• I totally agree we should get before us the co•chairs of EMHP and try to find out just what the status of that particular extended agreement is, because from that point forward this body shall be involved in all ratification with respect to changes.

CHAIRMAN ALDEN:

Legislator Mystal.

LEG. MYSTAL:

Contrary to what Legislator Crecca said earlier that this is a very simple bill, it seems like this is a very complex bill to me. And there's a lot of stuff in the bill that need to be answered. If in fact this gets approved and get to be put on the agenda, I will like to request from the Chair of this Committee and anybody else that we bring in all relevant persons on this bill next Tuesday, include people from EMHP, people from the County Executive, people from the unions, because apparently this is much more complex than stated previously, because there's a lot of questions. And you know, I really don't know •• I think it's a good bill. I would like to vote for the bill, but there are a lot of questions in there. So if this thing makes it to the agenda next week, then we should have the people who can answer the question that Legislator O'Leary just pointed out and Legislator Vilorio•Fisher, myself. You know, maybe you can bring them in on Tuesday if it makes it to the agenda.

LEG. CRECCA:

Well, that's what I was just discussing with the Chairman. We could •• we could certainly have them here next Tuesday, I'd be in favor of that. Or if the committee felt more comfortable doing a special meeting on Monday, I could propose that too of this committee.

LEG. MYSTAL:

Oh, no. Oh, no.

LEG. CRECCA:

I think we should have them there on Tuesday. And I'll give my word that it there's •• to the members of the committee that if there are issues that need to be further explored with this or new issues arise or there's a better solution, I'll table it on the floor.

CHAIRMAN ALDEN:

Legislator Vilorio•Fisher, we have an executive session that a presentation was asked by the County Attorney's Office.

LEG. CRECCA:

Can we take a vote on this first?

CHAIRMAN ALDEN:

We have a motion to approve and a second. All those in favor? Opposed?

LEG. VILORIA • FISHER:

Opposed.

CHAIRMAN ALDEN:

Legislator Viloria • Fisher is opposed.

LEG. MYSTAL:

I'll abstain.

CHAIRMAN ALDEN:

Abstain, Legislator Mystal. Okay. That's **APPROVED. (VOTE:5 • 1 • 1 • 0) (Opposed; Legis. Viloria • Fisher) (Abstention; Legis. Mystal)**

1749 • 2004. Directing the Department of Law to withdraw the Article 78 proceeding County of Suffolk Versus New York State Commission of Corrections. (PRESIDING OFFICER).

LEG. VILORIA • FISHER:

Opposed.

LEG. CRECCA:

Motion to approve.

LEG. NOWICK:

Second.

CHAIRMAN ALDEN:

We have a motion to approve by Legislator Crecca, seconded by Legislator Nowick. All those in favor?

LEG. VILORIA • FISHER:

Opposed.

LEG. MYSTAL:

Opposed.

CHAIRMAN ALDEN:

Okay. **Opposed**, we have **Legislator Mystal, Legislator Vilorio • Fisher**. That's it. We find that **APPROVED. (VOTE:5 • 2 • 0 • 0)**

1750 • 04. Authorizing the commencement of eminent domain proceedings for land adjacent to Lake Ronkonkoma Park and assist in relocation of residents. (CRECCA)

LEG. CRECCA:

Motion to table to next meeting.

CHAIRMAN ALDEN:

Seconded by myself. All those in favor? Opposed? That's **TABLED. (VOTE:7 • 0 • 0 • 0)**.

SENSE 54. Memorializing resolution requesting State of New York to extend to Emergency Tenant Protection Act of 1974 to Suffolk County Senior Citizens. (VILORIA • FISHER)

LEG. MYSTAL:

Motion to table.

CHAIRMAN ALDEN:

Motion by Legislator Mystal to table, seconded by Legislator Crecca. All those in favor? Opposed? That's **TABLED. (VOTE:7 • 0 • 0 • 0)**.

We have two new Sense Resolutions •• go ahead, Legislator Crecca.

LEG. CRECCA:

Before Mr. Zwirn leaves, I just want to tell him I tabled 1750, which is very similar to the prior bill that we failed to override today. And I •• just the reason I tabled it is I'd like to try to work something out with the County Executive if we can. So I just want to extend that publically that I'm willing to sit down at any time to see if we can work out the Lake Ronkonkoma situation. Thank you, Mr. Chairman.

S•58. Sense Resolution calling on Suffolk County Executive Levy to authorize closing of non•essential County offices in observance of the death of President Ronald Regan. (BINDER)

S•59. Sense Resolution calling on all Town Supervisors in Suffolk County to authorize closing of non•essential offices in observance of the death of President Ronald Regan. (BINDER)

CHAIRMAN ALDEN:

You know what? Fifty•eight and 59, I'm going to make a motion to strike them from the calender as they're •• they really are untimely at this point in time, because they deal with the death of a former President. All those in favor? Opposed? And I have a second by Legislator Crecca to strike this from the calender. So I have a second by Legislator Crecca. All those in favor? Opposed? Those two are stricken from the calender. **STRICKEN. (6•0•0•1)**
(Not present; Legis. Vilorio•Fisher)

We have an Executive Session asked for by the County Attorney. Now, you know what? Actually I can exclude everybody in this room from this point in time from the Executive Session. So we can exclude everybody in the room. Just turn off your mikes and we will hold the Executive Session right here.

(* AN EXECUTIVE SESSION WAS HELD FROM 6:15 P.M. to 6:26 P.M*)

CHAIRMAN ALDEN:

We're back from Executive Session. We entered Executive Session at 6:12 to consider two proposals for settlement; one was a medical malpractice case, which we authorized the County

Attorney's to settle. The second one would have been attorney's fees for a lawsuit brought in regard to redistricting, which we did not authorize settlement for on those attorney's fees. It is now 6:27 p.m. And Ilona, did we do the Consent Calender?

Motion by Legislator Crecca to place the following resolutions on the Consent Calender, seconded by Legislator Alden 1240 •• Resolution Number **1648, 1649, 1650, 1651, 1652, 1653, 1654, 1655, 1656, 1680**, and that's pretty much it. So all those in favor? Opposed? That's unanimously carried by the committee. It's now 6:30 and we stand adjourned. Thank you.

(* THE MEETING WAS ADJOURNED AT 6:30 P.M. *)

_ _ **DENOTES BEING SPELLED PHONETICALLY**